# CHAPTER 5

# EMPLOYMENT

1. Tobacco cultivation
2. Primary transformation
3. Manufacture - tobacco products
4. Distribution and selling
5. Summary

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Source: https://www.industrydocuments.ucsf.edu/docs/nhjl0000

# CHAPTER 6

# EXCISE TAXES

Introduction

1. The tax systems - fixed (or specific) and proportional (or ad valorem)
2. Repercussions of the tax systems
3. Harmonisation of tobacco taxation
4. The "duty-free" situation

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Source: https://www.industrydocuments.ucsf.edu/docs/nhjl0000

Table 25. NUMBER OF TOBACCO-GROWERS IN THE EUROPEAN COMMUNITY; AVERAGE LAND AREA AND PRODUCTION IN 1977

| Item | | Tobacco producing country | | | | |
|---|---|---|---|---|---|---|
| | | B | D | F | I | EC - 9 |
| Number of planters x $10^3$ | 1965 | 1.76 | 11.95 | 57.71 | 85.03 | 156.45 |
| | 1970 | 1.04 | 6.59 | 41.72 | 90.00 | 139.35 |
| | 1975 | 0.77 | 6.10 | 36.13 | 93.65 | 136.65 |
| | 1976 | 0.70 | 6.00 | 36.02 | 103.02 | 145.74 |
| | 1977 | 0.66 | 6.00 | 35.36 | 96.17 | 138.19 |
| Area cultivated, 1977 ha x $10^3$ | | 0.47 | 3.76 | 22.05 | 58.79 | 85.07 |
| Area per planter, 1977, ha | | 0.71 | 0.65 | 0.62 | 0.61 | 0.62 |
| Production per Country, 1977, te x $10^3$ | | 1.58 | 8.78 | 46.08 | 109.67 | 166.11 |
| Production per hectare, 1977, te | | 3.36 | 2.34 | 2.09 | 1.87 | 1.95 |
| Production per planter, 1977, te | | 2.39 | 1.46 | 1.30 | 1.14 | 1.20 |

*Source* : *FEDETAB*

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Source: https://www.industrydocuments.ucsf.edu/docs/nhjl0000

# CHAPTER 7

## SMOKING AND HEALTH

Introduction

1. National action by EEC Member States
2. International organisations
3. The views of the tobacco industry
4. Action at Community level

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Source: https://www.industrydocuments.ucsf.edu/docs/nhjl0000

V.A.T. (since 1.2.1978)

| Product | Rate |
|---|---|
| a) Cigars weighing more than 3g. | 7.43% of retail price |
| b) Other cigars (cigarillos) | 8.19% of retail price |
| c) Cigarettes | 14.70% of retail price |
| d) Smoking, chewing or pinching tobacco | 10.41% of retail price |

(iv) Germany

Excise duties (since 1.1.1977)

| Product | Rate |
|---|---|
| a) Cigars/cigarillos | 18.58% of retail price (with a minimum of 26 DM per 1000) |
| b) Cigarettes | 24.30% of retail price + 4.92 pf. per piece |
| c) Fine cut tobacco | 16.97% of retail price + 1.30 DM (if the tobacco is made exclusively of ribs; + 1.50 DM/kg if the tobacco contains at least 30% of ribs and costs less than 32 DM/kg.: 4.70 DM/kg. |
| e) Plug tobacco | 3.50 DM/kg. |

V.A.T. (since 1.1.1978)

| Product | Rate |
|---|---|
| Tobacco products manufactured in Germany | 12% of invoice price |
| Imported tobacco products | 12% of frontier price |

V.A.T. is applicable at each step in the distribution chain and is deductible.

(v) France

Consumer duty (since 16.5.1978)

| Product | Normal or basic rate | Minimum [illegible] |
|---|---|---|
| a) Cigars *(1)* | | |
| - natural tobacco wrapper | 22.50% of retail price | [illegible] |
| - reconstituted tobacco wrapper | 26.20% of retail price | [illegible] |

*(1) see following page*

Source: https://www.industrydocuments.ucsf.edu/docs/nhjl0000

Table 27. CONTRIBUTION OF TOBACCO TAXES TO NATIONAL REVENUE - 1976

| Country / Category 1976 | B | L | NL | D | F | I | UK | Eir | Dk | EC-9 |
|---|---|---|---|---|---|---|---|---|---|---|
| Tobacco taxes (Duty +VAT) | FB | FL | Fl | DM | FF | Lit | £ | £ | Kr | |
| Total (in national currencies x $10^9$ (1) | 17.0 | 1.09 | 1.35 | 9.42 | 7.51 | 1425 | 2.11 | 0.09 | 3.62 | |
| National currencies per EUA (1976) (2) | 43.16 | 43.16 | 2.95 | 2.81 | 5.34 | 930 | 0.62 | 0.62 | 6.76 | |
| Total tobacco taxes (EUA x $10^9$)=A | 0.39 | 0.03 | 0.46 | 3.35 | 1.41 | 1.53 | 3.40 | 0.15 | 0.54 | 10.6 |
| Total national taxes plus social contributions (2) (EUA x $10^9$)= B | 25.36 | 1.00 | 36.96 | 153.58 | 121.75 | 51.29 | 72.01 | 2.66 | 14.89 | 479.5 |
| Tobacco taxes as a percentage of national revenue ( $\frac{A}{B}$ x 100) | 1.54 | 2.53 | 1.24 | 2.18 | 1.16 | 2.99 | 4.73 | 5.46 | 3.63 | 2.21 |

*(1) Source : FEDETAB*

*(2) Source : EUROSTAT*

*Ranking order : Eir > UK > Dk > I > ( > EC-9) > D > B > NL > F*

specific content as in Germany, the UK, Ireland and Denmark, it must follow that pricing of the basic product by the French and Italian monopolies is much lower than elsewhere.

This low pricing runs parallel with the lower manufacturing margin for the French and Italian products as shown in Chapter 2, table 10.

Source: https://www.industrydocuments.ucsf.edu/docs/nhjl0000

(vii) United Kingdom

Product duty (since 1.1.1978) *(1)*

| Product | Rate° |
|---|---|
| a) Cigarettes *(2)* | 30% of retail price + 9 pounds per 1000 (Commencing on 4.9.1978, an additional specific rate of 2.25 pounds per 1000 is applied to cigarettes with a condensate content of more than 20 mg. per piece) |
| b) Cigars | 9.50 pounds per lb (453 gr) |
| c) Pipe tobacco | 7.30 pounds per lb |
| d) Fine-cut tobacco | 9.20 pounds per lb |

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° *These rates are valid both for products manufactured in the UK and for products imported from the other EEC Member States.*

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V.A.T. (since 29.7.1974)

For all products: 8% of the value (excluding the duty). Tax is payable by the manufacturer or importer and by re-sellers at each stage of distribution on the value added.

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*(1) Up until 1973 excise duty was applied only to the amount of leaf tobacco used (on a weight basis). The system was modified in stages, becoming first a mixed system: weight of leaf + tax on finished product, until now it has become a tax levied on finished product only, as in the other EEC Member States.*

*(2) Tar (condensate) tax: the UK was allowed under the second EEC directive of 19.12.1977 to apply an additional excise duty of 7p. per packet on cigarettes containing over 20 mg. of tar. Industry complained and asked for postponement until 1.1.1979 and for a revised limit of 23 mg., but its suggestion was rejected by the House of Commons on 11.4.1978. Hence as of 4.9.1978, the tar (condensate) tax on cigarettes amounts to an additional 7p/20 for cigarettes containing over 20 mg. of tar each.*

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(viii) Ireland

Excise duty (since 1.1.1978)

| Product | Rate |
|---|---|
| a) Cigarettes | 15.70% of retail price + 8 pounds/1000 |

Source: https://www.industrydocuments.ucsf.edu/docs/nhjl0000

- for excise tax and V.A.T. an adjustment of EEC provisions (see above) should be effected in order to bring them into line with the factual situation.

The Commission's attitude meets with opposition from certain Member States. Nevertheless, it is likely that eventually all Member States will go along with its position. However, the Commission has not yet made any proposals. The question will probably be brought up again after the direct elections to the European Parliament.

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Source: https://www.industrydocuments.ucsf.edu/docs/nhjl0000

Table 26. CIGARETTES: RELATIONSHIP BETWEEN SALES, UNIT PRICES AND EXCISE DUTIES - 1977

| Category, 1977 \ Country | B/L | NL | D | F | I | UK | Eir | Dk |
|---|---|---|---|---|---|---|---|---|
| Retail sales - pcs x $10^9$ (1) | 19.8 | 26.9 | 116.1 | 86.4 | 91.3 | 125.9 | 7.3 | 9.4 |
| | BF/LF | Fl | DM | FF | Lit | £ | £ | Kr |
| Retail sales values in national currencies x $10^9$ (1) (2) | 31.30 | 3.06 | 15.8 | 10.76 | 2030 | 2.70 | 0.15 | 4.31 |
| EUA in national currencies | 40.88 | 2.80 | 2.65 | 5.61 | 1007 | 0.65 | 0.65 | 6.85 |
| Retail sales in EUA x $10^9$ | 0.77 | 1.09 | 5.96 | 1.92 | 2.02 | 4.15 | 0.23 | 0.63 |
| Retail price / 1000 cigarettes in EUA | 38.89 | 40.52 | 51.34 | 22.22 | 22.37 | 32.95 | 31.5 | 67.02 |
| Total tax (excise + VAT) in national currencies x $10^9$ | BF/LF 20.55 | Fl 1.76 | DM 11.51 | FF 8.42 | Lit 1652 | £ 2.26 | £ 0.10 | Kr 3.87 |
| Total cigarette tax in EUA x $10^9$ | 0.50 | 0.63 | 4.34 | 1.50 | 1.64 | 3.48 | 0.15 | 0.56 |
| Tax as a proportion of sales value % | 65.7 | 57.5 | 72.8 | 78.3 | 81.4 | 83.7 | 66.7 | 89.8 |
| Mean tax yield per 1000 in EUA | 25.25 | 23.42 | 37.38 | 17.36 | 18.16 | 27.64 | 20.55 | 59.57 |
| Tax rates (on 7.1.78) (1) specific per 1000 | BF LF | Fl | DM | FF | Lit | £ | £ | Kr |
| - in national currencies | 59.0 48.0 | 3.60 | 49.2 | 2.71 | 472 | 9.0 | 8.0 | 327 |
| - in EUA | 1.44 1.17 | 1.29 | 18.57 | 0.48 | 0.47 | 13.85 | 12.31 | 47.74 |
| - as a proportion of retail value, % | 3.7 3.0 | 3.2 | 36.2 | 2.2 | 2.1 | 42.0 | 39.1 | 71.2 |
| Proportional + VAT % | 67.7 57.5 | 65.8 | 36.3 | 70.3 | 73to77 | 30.2 | 24.8 | 23.8 |

(1) Source : FEDETAB

(2) Where gross revenue or sales value is given for total tobacco sales in source data, the cigarette element has been taken as 90 % of the total. This corresponds to the overall EC-9 ratio of cigarettes to other products being 9 to 1.

Source: https://www.industrydocuments.ucsf.edu/docs/nhjl0000

| Product | Rate |
|---|---|
| b) Cigars | 6.817 pounds/lb |
| c) Smoking tobacco | |
| - Cavendish or Negrohead (for wet pipe smoking) | 6.889 pounds/lb |
| - Hand-pressed tobacco (plug, coil, twist, roll, bar, etc.) | 4.406 pounds/lb |
| - Other pipe tobacco | 5.538 pounds/lb |
| - Other smoking tobacco (fine cut) | 5.753 pounds/lb |

V.A.T. (since 1.11.1972)

A V.A.T. rate of 10% (effectively 9.09%) is applied to all tobacco products. It is imposed at each resale. The basis for calculation on import is customs value + duty (excluding V.A.T. itself).

(ix) Denmark

Consumer duty

| Product | Rate |
|---|---|
| a) Cigarettes (since 1.10.1978) | 22.41% of retail price + 33.5 ore per piece |
| b) Cigars - cigarillos (since 1.4.1978) | 10% of retail price + 19.8 ore per piece |
| c) Pipe tobacco (since 3.10.1977) | 73 Kr per kg. |
| d) Fine cut tobacco (since 3.10.1977) | 250 Kr per kg. |
| e) Chewing tobacco (since 3.10.1977) | 23% of retail price (excluding V.A.T.) |
| f) Snuff tobacco (since 3.10.1977) | 39% of retail price (excluding V.A.T.) |

V.A.T. (since 1.10.1978)

A V.A.T rate of 20.25% of retail price (excluding V.A.T.) is applied to all products.

In a supplementary reply to a Parliamentary question *(1)*, the Commission established the following table showing national retail prices of cigarettes in the most popular price category on January 1, 1978, as well as the percentages of excise duty and V.A.T. contained in that price:

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*(1) A first reply was given on 18.1.1979 (OJ N° C 45 of 19.2.1979, p. 40).*

Source: https://www.industrydocuments.ucsf.edu/docs/nhjl0000

| Number of employees, of whom: | | male | female | total wages (DM) |
|---|---|---|---|---|
| Permanent | 642 | 214 | 418 | 12 170 434 |
| Seasonal | 265 | 130 | 135 | 2 640 133 |
| | 907 | 344 | 553 | 14 810 567 |
| | | | | (including social charges) |

This breaks down into an average of 76 workers per establishment, of whom 54 were permanently employed and 22 were used on a seasonal basis.

c) France

In 1974, a total of 24 establishments provided employment for:

| Number of employees, of whom: | | male | female | total wages (FF) |
|---|---|---|---|---|
| Permanent | 329 | 237 | 92 | 15 738 463 |
| Seasonal | 467 | 287 | 180 | 9 250 078 |
| | 796 | 524 | 272 | 24 988 541 |
| | | | | (including social charges) |

This breaks down into an average of 33 workers per establishment, of whom 14 were permanently employed and 19 were used on a seasonal basis.

d) Belgium

No figures were given in the report but assuming an average of 50 workers were employed in the nine Belgian establishments, a total of some 400-500 people would be involved.

3. Manufacture - tobacco products

The following figures are given by Fedetab concerning employment in the tobacco manufacturing industry in the nine EEC Member States during the period 1976-1977:

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Source: https://www.industrydocuments.ucsf.edu/docs/nhjl0000

*INTRODUCTION*

*Smoking became a controversial issue as soon as Europeans learned to take pleasure in consuming tobacco.*

*Robert Burton (1577-1640) wrote:*

"Tobacco, divine, rare, super excellent tobacco, which goes far beyond all their panaceas, potable gold and philosopher's stones, a sovereign remedy for all diseases .....

"But, as it is commonly abused by most men, which take it as tinkers do ale, 'tis a plague, a mischief, a violent purger of goods, lands, health, hellish, devilish and damned tobacco, the ruin and overthrow of body and soul".

*(Anatomy of Melancholy)*

*King James I of England was less equivocal:*

"A custom loathsome to the eye, hateful to the nose, harmfull to the brain, dangerous to the lungs and in the black stinking fume thereof, nearest resembling the horrible Stygian smoke of the pit that is bottomless."

*(A Counterblast to Tobacco - 1604)*

*On the other hand, Charles Lamb wrote:*

"For thy sake, Tobacco, I
would do anything but die"

*(A farewell to tobacco - 1819)*

*More than 100 years later, Henry Ford would not tolerate smoking in his factories, mainly because of Thomas Edison's conclusions that cigarettes had a deleterious effect on brain tissue.*

*The smoking habits of the English upper classes have been described just recently (1). Smoking parlours were used for after-dinner pipe smoking from 1690 to about 1770 but by the end of the 18th century tobacco was banished from polite society. It was under the royal patronage of the Duke of Sussex, brother of George IV that smoking was re-introduced. In 1827, after he had ac-*

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(1) *"Life in the English Country House", by Mark Girouard, Yale University Press, New York and London 1978*

Source: https://www.industrydocuments.ucsf.edu/docs/nhjl0000

## 1. Tobacco cultivation

Tobacco cultivation in the European Community is characterized by the restricted size of the area planted by each grower. The 138,000 tobacco-growers in the Community each cultivate an area averaging just over half a hectare in size (or around one and a half acres).

The number of tobacco-growers in the EEC has remained virtually the same since 1970, following a fall in numbers from the 1965 level. (The relevant figures are shown in table 25.) At a national level, the number of growers is still falling in Belgium and to a lesser extent in France, while it is fairly steady in Germany and tending to increase in Italy.

As a source of employment, the basic assumption is that each farm working unit will employ two to four people to plant, cultivate and harvest the crop. On an EEC basis, this would mean employment of something between 280,000 and 550,000 people. The planting-to-harvest period is around six months; hence, these workers cannot be kept fully employed throughout the year unless they also participate in the next stage of tobacco leaf preparation. Meanwhile, however, a majority of farmers, especially in the northern countries, cultivate several different crops instead of concentrating wholly on tobacco.

In Italy, different varieties are grown depending on whether the farm is situated in Lombardy, Umbria or the Mezzogiorno. Broadly speaking, the flue-cured varieties are grown in the North, Burley in Central Italy and Oriental in the South.

In recent years, the oriental varieties grown in Southern Italy have come in for special attention, mainly because, as a result of the Common Agricultural Policy, there has been a tendency to overproduce. This has necessitated excessive intervention purchases and required action under Article 13 of Regulation 727/70 (see Chapter 4 above).

In Apulia in particular, and to a lesser extent in Abruzzi and Campania, tobacco growing is possible in the light, loose and infertile soil in the hot, dry climate. Tobacco is an element of considerable economic importance in this highly populated region since it provides plenty of manual labour for the farm hands. The tobacco is quasi-exclusively grown by the 40,000 or so owner/farmers and their families, occupying six months of the year, while further processing employs some of these people through the winter.

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Source: https://www.industrydocuments.ucsf.edu/docs/nhjl0000

This leads to the premise, albeit one that cannot be verified, that the monopolies must be enjoying some significant state aid despite of tax harmonisation and increased imports from other Member States.

Competitors accuse the monopolies of uncommercial pricing practices. SEITA asserts that it is not running a loss but, since it does not publish its accounts or publicly report its activities, "free" business continues to refute its argument. It has not been possible, for the purposes of this study, to determine return on capital. If, however, the figures given by UNCTAD (see above) are accurate, then the "oligopoly" is only just keeping its head above water in these inflationary times, and the monopolies must be making a loss.

Competition, in the "free" sense, has not been helped so far by the harmonisation of tobacco taxes in the Community.

b) National excise duties and VAT (Value Added Tax)

(i) Belgium

Leaf tobacco - imported: a 6% VAT rate is applied on import or on removal from bond. VAT paid is recoverable.

Leaf tobacco - indigenous: a 6% VAT rate is applied on purchase from the planter. This is invoiced by the planter and paid by the manufacturer/purchasers, who can subsequently recover the amount paid.

Manufactured tobacco

| Product | Excise duty (1) | VAT (1) | Fiscal total (2) |
|---|---|---|---|
| Cigars (since 1.1.1971) | 11.50% | 5.66% | 17.16% |
| Cigarillos (since 1.1.1971) | 16.00% | 5.66% | 21.66% |
| Smoking, chewing and pinching tobacco (since 1.1.1971) | 31.50% | 5.66% | 37.16% |
| Cigarettes (since 1.1.1978) | - ad valorem excise | | 55.55% |
| | - special excise ad valorem | | 6.50% |
| | Total ad valorem | | 62.05% (cont'd)/ |

(1) *The proportional duties (excise ad valorem and VAT) are a percentage of the retail price.*

(2) *The total fiscal charge corresponds with the fiscal "bandelette".*

Source: https://www.industrydocuments.ucsf.edu/docs/phjl0000

quired the German habit of smoking cigars, cigars were handed round after the ladies had left the dinner table in deference to him. But it was Prince Albert and the Prince of Wales, later King Edward VII, who really launched the habit: both were inveterate cigar smokers.

Throughout the 19th century, smoking was regarded as undesirable and indeed unforgivable by many British country house owners.

- The Duke of Wellington made his guests smoke in the servants' hall;
- Sir John Boileau in 1850 never invited back a guest who smoked;
- The Bishop of Rochester in 1855 would reject any candidate who was known to smoke in bed;
- At St. Alban's Court, W.O. Hammond made guests smoke in the kitchen (after the servants had left).

From 1850 onwards, smoking gained ground, but strictly in the smoking room, which rapidly became the most important place for the male members of the Victorian house party, a place where they might find seclusion from female society. In this male territory par excellence, elaborate rituals developed. Decorated smoking jackets were worn, drink and billiards were enjoyed and gun-rooms were added to the male domain. Attendance at a smoking party was mandatory.

By 1930, however, the formalities had vanished: smoking was allowed in the drawing room with the ladies. The smoking room, with or without its billiard-table, survived only as a sitting-room for the men.

In 1950 came the first warning in the US of a possible link between smoking and lung cancer, followed in 1954 by statistical medical data indicating a higher death rate for smokers than non-smokers.

In 1962, the Royal College of Physicians in the UK produced a report drawing attention to the hazards of excessive smoking and recommending the use of "low-tar" cigarettes. This was followed by the Surgeon General's report (the Terry Report) in the US in 1964, entitled "Smoking and Health" and issued by the Department of Health Education and Welfare (H.E.W.).

The most recent action in the US is the proposal made by Mr. Califano, H.E.W. Secretary in President Carter's Administration, in 1978 to spend

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Source: https://www.industrydocuments.ucsf.edu/docs/nhjl0000

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Source: https://www.industrydocuments.ucsf.edu/docs/nhjl0000

| Ctry | Retail prices (20 cigarettes) in national currency | Percentage of taxes in EUA | Excise duties | V A T | Total |
|---|---|---|---|---|---|
| B | BF 32.80 (BF 41/25 cigarettes) | 0.827 | 65.65 | 5.66 | 71.31 |
| L | LF 24 (LF 30/25 cigarettes) | 0.605 | 59.55 | 2.0 | 61.55 |
| NL | Fl 2.08 (Fl 2.60/25 cigarettes) | 0.767 | 54.50 | 14.7 | 69.20 |
| F | FF 2.30 | 0.400 | 47.20 | 25.45 | 72.65 |
| D | DM 2.70 | 1.076 | 60.74 | 10.71 | 71.45 |
| I | Lit 600 | 0.525 | 57.92 | 15.25 | 73.16 |
| DK | DKr 14 | 2.006 | 70.27 | 16.84 | 87.11 |
| UK | £ 0.55 | 0.811 | 62.73 | 7.4 | 70.13 |
| Eir | £ 0.45 | 0.664 | 51.25 | 9.1 | 60.35 |

## 4. Harmonisation of tobacco taxes in the Community

### a) EEC Council Resolution

On April 21, 1970, that is, the same day as Regulation 727/70 on the common organization of the market in raw tobacco (fully discussed in Chapter 4) the EEC Council resolved that:

*"The Council ..... will adopt, before January 1, 1971, a Directive laying down the introduction, in several stages, of a harmonized system of excise duties on manufactured tobacco. As regards the excise duty on cigarettes, this*

Source: https://www.industrydocuments.ucsf.edu/docs/nhjl0000

b) Information schemes

These include:

- compulsory warning notices on packages
- a ban on publicity.

A noteworthy feature of these schemes is that the obligation to mention the possibility of injury to health through the (immoderate) use of tobacco, particularly cigarettes, has been introduced by law or convention.

In several countries, warnings are printed on the packets in addition to information concerning the condensate and nicotine contents, filters, etc.

In all Member States, advertising is restricted or prohibited, either by law or by administrative provision, or by agreement between the tobacco manufacturers and official government institutions.

c) Health education programmes

Considerable efforts have been made in all Member States to include the fight against smoking in health education programmes. Young people are considered to be particularly vulnerable. Health authorities and private organisations have taken the initiative with anti-smoking campaigns.

The special hazards of smoking for pregnant women have received widespread recognition throughout the Community. Recent scientific information has been given wide press and mass media coverage concerning the potential risks involved in the combination: contraceptive pill/smoking.

d) Policy repercussions

In describing their policies to date, none of the Member States reckons that there has been any significant reduction in consumption. In general, smoking appears to be on the increase where women are concerned, while the figures for young people are virtually static. However, there is a tendency for men to smoke less or to stop sooner.

At best, the consumption curve can be said to be flattening out. Meanwhile, these trends are more obvious in some countries than in others.

Source: https://www.industrydocuments.ucsf.edu/docs/nhjl0000

| | |
|---|---|
| - specific excise | 48.00 FB per 1000 |
| - special specific excise | 11.00 FB per 1000 |
| Total specific | 59.00 FB per 1000 |
| V.A.T. | 5.66% |
| Total fiscal charge | 71.30% *(1)* |

(ii) Luxembourg

| Product | Excise duty *(2)* | VAT *(2)* | Fiscal total |
|---|---|---|---|
| Cigars (since 1.1.1971) | 11.50% | 2.0% | 13.50% |
| Cigarillos (since 1.1.1971) | 16.00% | 2.0% | 16.00% |
| Smoking, chewing or pinching tobacco (since 1.1.1971) | 31.50% | 2.0% | 33.50% |

Cigarettes (since 1.1.1978):

| | |
|---|---|
| - ad valorem excise | 55.55% |
| - specific excise | 48 FL per 1000 |
| - V.A.T. | 2.00% |
| - Total fiscal charge | 61.55% *(3)* |

(iii) The Netherlands

Excise duties (since 1.7.1978)

| Product | Rate |
|---|---|
| a) Cigars weighing more than 3gr | 11.50% of retail price |
| b) Other cigars (cigarillos) | 16.00% of retail price |
| c) Cigarettes | 51.07% of retail price plus 3.60 Fl per 1000 |
| d) Smoking, chewing or pinching tobacco | |
| - at a price of 33.50 Fl or less per kg. | 31.50% of retail price |
| - more than 33.50 Fl per kg. but less than 38 Fl per kg. | 35.70% of retail price |
| - more than 38 Fl per kg. | 36.90% of retail price |

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*(1) This percentage is valid only for the popular brands sold at 41 FB per 25. On this price, the State receives 29.235 frs., that is 71.30%.*

*(2) The proportional duties (excise ad valorem and VAT) are a percentage of the retail price.*

*(3) This percentage is valid only for the popular brands sold at 30 FL per 25. On this price, the State receives 18.465 FL, that is 61.55%.*

Source: https://www.industrydocuments.ucsf.edu/docs/nhjl0000

| | B/L | NETH | GER | FR | IT | UK | IRE | DEN | EEC |
|---|---|---|---|---|---|---|---|---|---|
| Number of employees ('000) | 7.4 | 10.3 | 22.4 | 10.8 | 15.3 | 44.0 | 2.4 | 6.0 | 118.6 |

These figures do not refer to workers employed in the field of packaging materials, filters, production machinery etc. which provide a considerable number of jobs. The exact total is hard to determine, but it is estimated at around 1-1.3 million.

## 4. Distribution and selling

The number of wholesalers, special retailers and selling points in the European Community as given by Fedetab is shown in Chapter 3. No actual employment figures are given, but on the assumption that three people are employed by each wholesaler and special retailer, with one person to every single selling point, the following picture emerges:

| | | | |
|---|---|---|---|
| Total number of wholesalers | : 7 500 | (suggested employment | 22 500) |
| Total number of special retailers | : 165 900 | (suggested employment | 497 700) |
| | | (Total | 519 200) |

It is rather difficult to determine the exact number of people employed in the sale of tobacco products. In the non-monopoly countries, tobacco products are sold in department stores and by newsagents, restaurants and bars, etc. in combination with other goods. Hence estimates of the number of people exclusively engaged in the sale of tobacco products are only approximate and they tend to vary considerably (anything from 1.5 million to 3 million jobs). This figure does not, however, include jobs connected with tobacco advertising.

## 5. Summary

On the basis of the above statistics and estimates, the production and distribution of tobacco products in the EEC can be said to provide between four and five million full-time jobs.

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Source: https://www.industrydocuments.ucsf.edu/docs/nhjl0000

*23 million dollars on a campaign to discourage tobacco smoking. This proposal has met with some opposition from the Secretary of Agriculture.*

*Public opinion today accepts that there are statistical correlations between excessive smoking and certain diseases. On the other hand, medical science does not claim that smoking is the only factor in causing these diseases. There is growing support for the view which attaches importance to the interaction of several contributing factors, the relative importance of which, however, is difficult to establish.*

*It is not the purpose of this study to analyse the medical aspects of smoking: some of these will be highlighted in the Annexes. Rather, the idea is to supply as fair as possible a summary of recent statements made in the European Community which are concerned with smoking. Unfortunately, the voices of the fanatics are generally heard first and loudest. When fanaticism, which may tend to bigotry, is answered facts in hand, the calmer voices of the moderates are accused, in these politically active times, of being equivocal. The tobacco companies for their part find themselves in a delicate position.*

*With the passing of time, the controversy has grown rather than diminished. Each and every successive report on smoking, however, has initially led to a fall in smoking only to be followed by a new increase.*

*Chapter 7 deals successively with national action in the European Community - ie. how Member States have reacted - and with the discussion on smoking within the European Community through the European Commission and the European Parliament. The actions taken at various levels are described in a further section, followed by the replies of the tobacco industry.*

## 1. National action by EEC Member States

### a) Legislative and prohibitory measures

All EEC Member States have legal or administrative requirements banning or limiting the use of tobacco in public places, educational establishments, at work, in public transport (and, in some countries, in taxicabs), hospitals, etc. Many of the measures in question were prompted by considerations such as fire safety rather than public health. It is only in the past three to four years that more stringent measures have been taken to enforce prohibitory rules in such places with a view to protecting the health of children, invalids and pregnant women.

Source: https://www.industrydocuments.ucsf.edu/docs/nhjl0000

TABLE 29. Continued

| Ctry | Advertising restraints | Health warning labels | Restricted smoking |
|---|---|---|---|
| B | Voluntary Fedetab agreement. No free samples. | Yes | Yes |
| L | - | - | Yes - new bill in preparation |
| NL | Voluntary - no promotional ads. Industry-Government Codex May 1979 restricts adverts in public transport and sportsgrounds and from under-18 youth. | No | Limited |
| D | Voluntary agreement to restrict. | No; tar content given | Youth and public transport |
| F | Banned by 1976 law except press (restricted) and point of sale. | Yes | Yes |
| I | 1962 law forbids all product advertising. | Voluntary | 1975 law : public places |
| UK | Trends towards a ban . | Voluntary and strong | Increasing |
| Eir | Voluntary industry code. No Radio/T.V. | Yes | Limited |
| Dk | Voluntary restraints by industry. | No | Yes |

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Source: https://www.industrydocuments.ucsf.edu/docs/nhjl0000

in an attempt to persuade Member States to abolish these tax-free sales. It considers that these sales are not only incompatible with the Treaty but also that they cause undesirable effects, such as:

- unequal treatment depending on the means of transport (aeroplanes, ships, trains, cars, etc.);
- distortion of competition to the detriment of retailers within the EEC;
- distortion between travellers depending on the means of transport;
- loss of EEC revenue from direct sources for financing the EEC budget (a percentage of V.A.T. revenue, customs duties).

The Commission's initiatives in this respect have met with considerable opposition from Member States and the operators of tax-free shops. Revenue from the shops constitute a large part of the resources available to airport authorities, air transport companies and ships and ferries. If the sales were to be abolished, either transport fares would have to be increased or State aids granted. Furthermore, a considerable number of jobs would be lost.

On the other hand, the Commission has noted that advantages for travellers are limited. The prices charged are not as low as they would be if the entire amount of tax were deducted. Prices generally are not much lower than those charged in ordinary shops.

Finally, after many years, the Commission decided in March 1979 not to pursue its action against tax-free sales. The Commission took into account that contrary to expectation, the Council actually increased tax-free allowances for all travellers, and that the abolition of tax-free sales for intra-Community travel would have negative psychological effects on travellers, especially in view of the then-imminent direct elections for the European Parliament. Furthermore, jobs would be lost, hardly a desirable effect under present labour market conditions.

The legal situation is, according to Commission sources, different where customs duties or internal taxes (V.A.T., excise) are concerned:

- the sale of goods from third countries not put through customs is a breach of Art. 10 (see above); Member States should, therefore, make appropriate arrangements which, however, are not necessary for goods originating in the EEC;

Source: https://www.industrydocuments.ucsf.edu/docs/nhjl0000

- The United Kingdom is authorized, for a period of 30 months from the date of entry into force of the second stage, to charge an additional excise duty on cigarettes whose condensate yield is 20 mg or more. Before the entry into force of the second stage, the United Kingdom shall inform other Member States and the Commission of the method and criteria used to determine the "tar" yield of cigarettes (see Chapter 1, 9.).

- Denmark may refrain from enforcing the directive in Greenland.

Germany and Denmark introduced a 25% ad valorem element and France, Italy and Belgium/Luxembourg and the Netherlands introduced a system with a 5% specific element. However, France and Italy complied with the directive belatedly (January 1979), thus creating a prejudice for the non-monopoly manufacturers.

For the time being, no project dealing with harmonization of the structures of excise duties applicable to cigars, smoking tobacco, chewing tobacco or snuff has reached the stage of a formal proposal for EEC decisions. Indeed, present efforts concentrate wholly on achieving progress towards the final stage of harmonization of cigarette taxes. Once this stage has been completed, a start will probably be made with the harmonization of taxation on cigars and smoking tobacco, since these two products are clearly of greater economic relevance than chewing tobacco or snuff.

d) Definition and classification of manufactured tobacco

One of the original tasks set in the 1972 directive was for the EEC Council to define and classify the various forms of manufactured tobacco. This is necessary in order to achieve tax harmonization, which so far has been concerned only with cigarettes.

The basic definitions were laid down in a proposal for a directive which the European Commission submitted to the Council on March 27, 1974 *(1)*. The resulting directive *(2)* did not appear until December 1978. The definitions proposed for cigarettes, cigars and cigarillos, smoking tobacco, snuff and chewing tobacco and those finally adopted are almost identical in wording. The difference concerns the proposed classification of cigars into two groups:

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*(1) OJ N° C 72/15 of 27.6.74 - Annex 26*

*(2) Council Directive 32/79/EEC of 18.12.78; OJ N° L 10/8 of 16.1.79 - Annex 27*

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Source: https://www.industrydocuments.ucsf.edu/docs/nhjl0000

The basic problem in reaching agreement among the nine EEC countries on harmonisation and transitional stages has been that the majority of free enterprise wants a predominantly specific system, whereas the State monopolies prefer a predominantly proportional system.

There is no way in which the polarisation of political views can be avoided today. The above outline of existing systems of taxation clearly shows that from a free enterprise point of view, the specific system appears the most beneficial.

In contrast, a recently published UNCTAD report not surprisingly defends an opposing view (quotation from UNCTAD report on "Marketing and Distribution of Tobacco", p. 79):

*"The international tobacco oligopoly has continued to strive for a dismantling of the French and Italian State monopolies, which it sees as a deterrent to the expansion of the multinationals' sales. It is for this reason that the multinationals have opted, in general, for a predominantly specific system of tobacco taxation that would facilitate a far greater penetration of the French and Italian markets by cigarettes produced within the Community by their subsidiaries. Such a system would not necessarily provide opportunities for the two leading European State monopolies to boost sales elsewhere in the Community, partly because their entire sales and marketing apparatus is much less export-oriented and aggressive than that of the oligopoly (although the quality of their tobacco products is just as good) and partly because their production is predominantly of cigarette types not equally popular in other EEC Member States. Conversely, while in appearance an ad valorem system would not facilitate the complete penetration of the two State monopolies, it should be borne in mind that the Italian market has already been deeply penetrated by the oligopoly (specifically by Philip Morris) and by bootleg trafficking.*

*"The level of ad valorem or specific duties, or the effect of any combination of these two, is not, in the final analysis, the determinant of market shares. The decisive factor is rather the sheer financial power and marketing skills, together with their advertising capabilities of the multinationals (which quite clearly the State monopolies in France and Italy do not possess in anything like the same degree). A suggestive pointer in this respect is the returns on capital: whereas SEITA (the French State tobacco monopoly) has a yearly return of 4-5%, that of the tobacco oligopoly exceeds 20%."*

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Source: https://www.industrydocuments.ucsf.edu/docs/nhjl0000

TABLE 29. SUMMARY OF SMOKING FACTORS IN MEMBER STATES

| Ctry | Political | Social | Anti-smoking |
|---|---|---|---|
| B | Trend to limitation and anti-smoking. | Non-smoking fashionable. Prices tend to restrain. | Children, parents, teachers, Education. Nat. CMee for coordination of anti-tobacco action. |
| L | No anti-smoking laws. | - | - |
| NL | Contrary arguments by individuals. | Personal freedom concept strong. No social differences. | Small groups - not well organised. "Action Non-smoking" since 1964. |
| D | Moderate attitude. Response to knowledge anti-smoking individuals. | General acceptance of anti-smoking allegations. Man in street responds to price and "rolls his own". | Fed. Min. of Health has programme on smoking and health. No concerted effort by various organisms. |
| F | Tobacco law 1976. Strong left-wing anti-smoking position. | No particular popular attitude. Personal freedom vital. | Health Ministry deals with anti-smoking information. |
| I | Not a significant issue. | Growing awareness but little impact on individuals. No strong medical views. | Min. of Health poster campaigns with Italian League against Cancer. |
| UK | Strong government line anti-smoking and "Health" tax on tar. | Fashionable concern. Anti-smoking position and statistics accepted without reservation. High tax a concern. | Well-organised and active. ASH (Action on Smoking and Health) supported by government grant and Roy. Coll. of Physicians, Health Education Council, Office of Health Education. |
| Eir | Probable anti-smoking attitude developing. | Public awareness but no dramatic shifts. | Min. of Health Education programmes with Heart and Cancer Societies. |
| Dk | Less active than other Nordic countries. Personal freedom respected | Educated opinion recognises hazards. Personal freedom of choice important. | To inform and educate. |

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Source: https://www.industrydocuments.ucsf.edu/docs/nbjl0000

There is no viable alternative crop in these areas and industrialisation is not feasible. Tobacco-growing and its primary transformation therefore provide worthwhile work and a steady income to the farmers and their families. There has been a tendency of late to form cooperatives and this has helped to cut costs, although there is still a noticeable lack of an efficient commercialisation structure.

## 2. Primary transformation

Details concerning primary transformation of tobacco leaf were given in Chapter 4 while reference was made to the report written on this subject on the European Commission's behalf *(1)*.

Based on this analysis of the cost of processing raw leaf into cured tobacco, the following estimate can be made of employment in the tobacco-growing industry in the four EEC producing countries.

### a) Italy

It is estimated on the basis of relevant data for 195 processing establishments that the employment situation in 1973 was as follows:

| Number of employees, of whom | | male | female | total wages (mio lire) |
|---|---|---|---|---|
| Permanent | 1 492 | 800 | 692 | 4 149 |
| Seasonal | 16 703 | 1 420 | 15 283 | 11 217 |
| | 18 195 | 2 220 | 15 975 | 15 366 |

This breaks down into an average of 93 workers per establishment, of whom 8 were permanently employed and 85 were used on a seasonal basis.

### b) Germany

In 1974, a total of 12 establishments provided employment for:

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*(1) "Les frais de première transformation et de conditionnement [illegible] brut produit dans la Communauté". (Also available in Italian.) [illegible] n° 22, March 1977 as part of the series: Informations sur l'Agriculture.)*

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Source: https://www.industrydocuments.ucsf.edu/docs/nhjl0000

Thus, a high proportional tax (say 80%) would have the following effects:

- a price reduction only costs the manufacturer 20% of the price change;
- 80% is borne by the government;
- price increases have the opposite effect.

By contrast, a low proportional tax rate (say 20%) results in the following:

- 80% of a price reduction (or increase) is reflected in the cost price and only 20% in tax.

d) Consequences

Since an essential feature of a free market is that a manufacturer should be able to price his goods to his customers according to his own costs and profitability margin, and because real competition means that an efficient manufacturer is able to lead the market with lower-priced goods or, in a stable market, can reinvest his margins in new plant and research, and increase wages (at the same time, of course, the reverse holds true for inefficient manufacture).

A high proportional tax might result in the following scenario:

- there is a premium on cheap products in a limited range;
- manufacturing costs tend to become unrealistically "squeezed" and manufacturing processes become inefficient;
- manufacturers are penalized by government-imposed price control in an inflationa context;
- there is a tendency not to reinvest and develop in the interests of efficient, profitable manufacture.

A high specific tax would result in a more free market oriented scenario:

- consumers are offered a wide range of products (quality, type and price);
- quality products bring increased export trade;
- comparative costs give rise to fair competition;
- adequate gross margins enable new development, investment, expansion etc.

Source: https://www.industrydocuments.ucsf.edu/docs/nhjl0000

- they must be sent in small consignments;
- they must be of an occasional nature;
- they must be intended for the personal use of the recipient;
- there must be no requirement of payment by the recipient;
- their total value must not exceed 30 EUA.

The following tobacco products are exempt from import duty:

| | | | |
|---|---|---|---|
| | 50 cigarettes | or | 10 cigars |
| or | 25 cigarillos (max. weight 3 g. each) | or | 50 g. of pipe tobacco |

Quantities in excess of these amounts are subject to the full CCT rate of duty.

The tariff treatment of goods contained in travellers' personal luggage is set out in an earlier regulation and directive which have been recently amended *(1)*.

Duty-free allowances for tobacco products are as follows:

| | EEC residents | | Non-EEC residents |
|---|---|---|---|
| | Travel between Member States | Travel between 3rd countries | Travel into and within the EEC |
| Cigarettes | 300 | 200 | 400 |
| or | | | |
| Cigarillos (max. weight 3 g. each) | 150 | 100 | 200 |
| or | | | |
| Cigars | 75 | 50 | 100 |
| or | | | |
| Smoking tobacco | 400 g. | 250 g. | 500 g. |

No exemption is allowed travellers under 17 years.

The value of these goods is not taken into account in ascertaining the amount of global exemption for goods up to a value of 40 EUA.

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*(1) EEC Council Regulation 1544/69 amended by EEC Council Regulation 3061/78 of 19.12.78; OJ N° L 366/3 of 28.12.78 - Annex 28*

*EEC Council Directive 183/69 amended by EEC Council Directive 1032 and 1033/78 of 19.12.78; OJ N° L 366/28 and 31 of 28.12.78 - Annex 29.*

Source: https://www.industrydocuments.ucsf.edu/docs/nhjl0000

*Introduction*

*The existence of different consumer taxes in the various EEC Member States was believed to impede the free movement of goods in the Common Market and thus to distort competitive conditions between importers and national manufacturers in the Member States. This was especially true in the field of manufactured tobacco, where tax systems varied widely, in particular excise tax systems, and in 1970 the EEC took the first steps gradually to harmonize these excise duties.*

## 1. The tax systems - "specific" and "proportional"

### a) Historical background

Tobacco and tobacco products have been a source of tax revenue in most countries for so long that the systems have grown highly complex. Moreover, the different fiscal regimes imposed by governments had varying effects on the size and quality of cigarettes and helped to shape consumer preference in this market.

There are three main types of taxation:

- excise duty on raw leaf. This form of taxation is now historical and has been discarded by both the UK and Ireland in favour of end-product duties containing specific and proportional components. However, this early form of taxation did embody the principles of specific taxation;

- specific (or fixed) taxation, historically applied by Germany and Denmark. These taxes were levied per unit;

- proportional (or ad valorem) (depending on the retail price) as applied by the Benelux countries, France and Italy.

It has been accepted since 1972 that the EEC system should be a mixture of the second and third types of taxation and the key issue at stake has been choosing the ratio of one to the other. Following the first harmonisation directive (see below), Germany and Denmark introduced a 25% proportional compoonen and the Benelux countries, France and Italy introduced a 5% specific element.

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Source: https://www.industrydocuments.ucsf.edu/docs/nhjl0000

c) Action on Smoking and Health (ASH) - London

Established in 1971 under the auspices of the Royal College of Physicians with the aim of "reducing smoking and mitigating its harmful health consequences", ASH has developed international impact as an important pressure group thanks to its first Director, Mr. Daube.

In the UK, ASH has established itself as:

- a strong lobbying organisation. About one in six British MPs are sympathetic to its cause. ASH provides regular information to parliamentary committees, has strong departmental ties and monitors the activities of the tobacco industry;

- a strong medical voice. Due to its close association with the Royal College of Physicians, ASH enjoys support and credibility among the medical profession and Health Ministers;

- a strong influence in the press and the media. ASH has established a weekly anti-smoking spot on BBC radio and receives constant and consistent news coverage.

In 1976 ASH sponsored a London meeting of non-government experts concerned with smoking and health in EEC countries, who:

- endorsed the 1975 WHO expert committee;
- expressed dissatisfaction with EEC member governments' response to ASH recommendations;
- invited participants to establish anti-smoking information committees, to collect tobacco consumption statistics and to press for action through the EEC Commission and the European Parliament.

ASH was also to coordinate consortia of delegates from each EEC member country.

ASH has established contact with the Committee on the Environment, Public Health and Consumer Protection of the European Parliament and brings pressure to bear on British representatives in the Community bodies to take up the smoking and health issue whenever possible.

ASH has been chosen by UICC as leading operator in producing its manual for action against smoking.

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Source: https://www.industrydocuments.ucsf.edu/docs/nhjl0000

tailers' discount raised from 7.25% to 8%. This resulted in the most important price categories (350 lire/packet) having a fiscal element of 74.42% of retail price; the lowest priced cigarettes being taxed at the rate of 77.21%; and the most expensive imported cigarettes at 73.34%.

The following table gives examples of several important price categories within the pricing structure of 1.4.1978.

Table 28. ITALY : PRICE AND TAX STRUCTURE FOR TOBACCO PRODUCTS

| Product | | Price structure | | | | | |
|---|---|---|---|---|---|---|---|
| Tariff price (per Kg) | Brand | Packet price | Consumer duty | VAT | Discounts | Distribution costs | Transfer price |
| a) Cigarettes | | | | | | | |
| 10,000 | (Nazionali) | 200 lire/20 | 6,138.58 | 1,525.42 | 800 | 500 | 1,036 |
| 17,500 | (Alfa) | 350 | 10,353.51 | 2,669.49 | 1400 | 500 | 2,577 |
| 20,000 | (Esportazione) | 400 | 11,758.16 | 3,050.84 | 1600 | 500 | 3,091 |
| 30,000 | (M.S.) | 600 | 17,378.73 | 4,576.27 | 2400 | 500 | 5,145 |
| 37,500 | (Milde Sorte) | 750 | 21,593.67 | 5,720.33 | 3000 | 500 | 6,680 |
| 40,000 | (Marlboro) | 800 | 22,998.31 | 6,101.69 | 3200 | 500 | 7,200 |
| b) Cigars | | | | | | | |
| 36,000 | (Toscanelli) | 450 lire/5 | 8,641.48 | 5,491.52 | 2880 | 500 | 18,487 |
| 40,000 | (Mercator Jupiter) | 1000 | 19,558.31 | 6,101.09 | 3200 | 500 | 10,640 |
| 90,000 | (Balmoral) | 2250 | 44,206.19 | 13,728.81 | 7200 | 500 | 24,365 |
| c) Cigarillos | | | | | | | |
| 24,000 | (Avana) | 300 lire/5 | 6,038.99 | 3,661.01 | 1920 | 500 | 11,880 |
| 60,000 | (Agio Filter Tip) | 750 | 29,641.46 | 9,152.54 | 4800 | 700 | 15,706 |
| d) Smoking Tobacco | | | | | | | |
| 12,500 | (Forte 1e qual.) | | 7,017.23 | 1,906.77 | 1000 | 250 | 2,326 |
| 35,000 | (Clan) | | 19,531.02 | 5,338.98 | 2800 | 250 | 7,080 |
| 45,000 | (Erinmore) | | 25,111.60 | 6,864.40 | 3600 | 250 | 9,174 |

*Source : FEDETAB*

Source: https://www.industrydocuments.ucsf.edu/docs/nhjl0000

## 2. Repercussions of the tax systems

### a) Retail sales and excise duties - actual values

A policy of tax harmonisation would be expected to throw off results which can be generally regarded as equivalent. However, it is abundantly clear from the above brief outline of the different effects of specific and proportional (or ad valorem) taxation that these two systems in fact give rise to very different arithmetical results in respect of retail prices compared with real product costs.

An analysis of data on retail cigarette sales and excise duties in the EEC Member States in 1977 (see table 26) highlights a series of important differences.

It is self-evident that all countries tax cigarettes heavily (between 60 and 90%), and excise duties contributed between 1 and 8% of national revenue in 1976 (see table 27).

The market data for 1977 refer to an excise tax structure as applied prior to the second Council directive on harmonisation but, as shown under b) below, tax levels on 1.1.78 were not vastly different from those obtaining on 1.1.77.

Hence, to sum up, the high specific/moderate ad valorem structures are found in Germany, the UK, Ireland and Denmark, and the high ad valorem/very low specific structures prevail in Belgium, Luxembourg, the Netherlands, France and Italy.

The current data assembled in tables 26 and 27 point up a striking difference between the "free market" and the monopoly countries:

- the unit retail value is very much lower in France in Italy than in the other countries;

- the mean tax yield is significantly lower in France and Italy despite the apparent agreement overall as regards tax as a proportion of retail sales value.

Since the structures obtaining in Belgium, Luxembourg and the Netherlands resemble those operating in France and Italy, and since the tax, as a proportion of sales value, is similar regardless of whether there is a low or high

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Source: https://www.industrydocuments.ucsf.edu/docs/nhjl0000

"Seeing as the European Commission has already proposed 43 directives on road traffic, is it not perhaps time to attack tobacco?

"This is the view of the Bureau of the Consumers' Consultative Committee which has taken the initiative in presenting its opinion on the use of tobacco. It takes the view that the European Commission should give priority to a vigorous campaign against the harmful effects of smoking.

High social cost

"Cutting back cigarette consumption is not an easy objective in times of economic crisis, since it would also involve a cutback in government tax revenue. Asking Member States to strangle the goose that lays the golden egg would perhaps be difficult for the European Commission.

"The figures involved are, however, astonishing. In the UK for example, the tax derived from tobacco amounts to some 1,600 million pounds per year. But the full social cost of smoking comes to around 4,500 million pounds. Social cost is composed of sickness benefit payments, medical care and medicines, the number of work days lost (50 million) and the damage caused by fire.

Cigarette beds

"A survey in a UK general hospital revealed that some ten percent of the beds were 'cigarette beds', i.e. were occupied by someone whose illness was principally the result of smoking.

"The situation in the UK is, however, far from exceptional. In Germany, tobacco taxes bring in some 9 billion DM but the social cost of smoking is as high as 20 billion DM. In the USA the damage caused by smoking has been calculated at 77 million work days lost, 88 million days spent in bed, 306 million workdays partially lost.

Cancer, bronchitis

"On top of the heavy bill paid by society for the consequences of smoking, there is also the direct effect on the consumers themselves. Between one third and a half of smokers will die from illnesses linked to smoking, according to two British academics, Poll and Peto. In France, tobacco

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Source: https://www.industrydocuments.ucsf.edu/docs/nhjd0000

- cigars of a unit weight not exceeding 2.3 g.;
- cigars of a unit weight exceeding 2.3 g.

which was omitted in the final text.

This came in for criticism both by the Economic and Social Committee *(1)* and the European Parliament *(2)*, who considered this to be too restrictive, given the diversity of cigar products marketed in the Community. In order better to reflect current national diversity, these two EEC institutions would have liked Member States to be given the option of classifying their cigars into six different groups:

- cigars of 1.15 g. or less;
- cigars of more than 1.15 g. but not more than 2.3 g.;
- cigars of more than 2.3 g.;
- the division of each of these three groups into cigars with natural or synthetic wrapper.

It should also be noted that the Council did not agree to any reference to the system of taxation, as proposed by the Commission in Article 3 of its draft directive (*"All products falling within the same group of manufactured tobacco shall be taxed under the same scheme and at the same rate."*). The Council did not feel such a provision was necessary at a time when cigarette tax harmonization had only reached the second stage, when no harmonization of excise taxes on other products had been achieved and when in any case the total abolition of fiscal barriers to trade was not likely to occur at short notice.

## 5. The "duty-free" situation

The exemptions from import duty for goods in small consignments of a non-commercial nature from third countries are set out in a recent EEC Council Regulation and Directive *(3)*.

These exemptions are granted to private persons in the Community and concern goods complying with the following criteria:

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*(1) OJ N° C 125/38 of 16.10.74*

*(2) OJ N° C 155/73 of 9.12.74*

*(3) EEC Council Regulation 3060/78 of 19.12.78; OJ N° L 366/1*
*EEC Council Directive 1035/78 of 19.12.78; OJ N° L 366/34 of 28.12.78*

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Source: https://www.industrydocuments.ucsf.edu/docs/nhjl0000

"But because some agencies in the US government, members of the medical profession and others who just don't like cigarette smoke act and react as if all the claims about smoking are scientific certainties, the Tobacco Institute sets forth here certain evidence which relates to such judgements.

"A comment made by the US Surgeon General in his foreword to the 1964 report is as relevant today as it was 15 years ago:

> *'The interrelationships of smoking and health undoubtedly are complex. The subject does not lend itself to easy answers. Nevertheless, it has been increasingly apparent that answers must be found.'"*

(ii) Public smoking

Other people's smoke has never been shown to cause disease in non-smokers.

"Scientists, researchers, government officials and even some well-known anti-smoking spokespersons have stated that smoking in public places does not harm the healthy non-smoker. Some persons may find the tobacco smoke of others annoying in some circumstances. Last year, a study conducted by Danish and British researchers found "transitory discomfort" but no evidence of lasting adverse health effects from cigarette smoke in otherwise healthy individuals.

"Some persons who favour banning tobacco smoke in public places cite an article published last year claiming that exposure to cigarette smoke resulted in changes in the exercise performance ability of patients with severe angina pectoris. What is usually ignored is that this study is subject to severe criticism for faulty design as well as unsupported conclusions based on patients' self-described symptoms.

"Some non-smokers claim to be allergic to tobacco smoke. However, neither cigarette smoke nor any of the components found in cigarette smoke has been demonstrated to be a human allergen. Non-smokers who make such a claim sometimes cite a study which shows that smokers as well as non-smokers react positively to skin tests with tobacco leaf extract, but this is an inappropriate substance to use in allergy testing for tobacco smoke.

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Source: https://www.industrydocuments.ucsf.edu/docs/nhjl0000

a) World Health Organisation (WHO) - Geneva

- 1948 Established as a specialized agency of the United Nations of which all nine EEC Member States are members. It represents health officials in 140 countries. It is a worldwide source of information on smoking and health, and in fact is the leading anti-smoking organization.

- 1969 First resolutions to control smoking.

- 1970 Surveys and measures to curb the use of tobacco.

- 1971 Code of practice to guide governments in formulating legislative action (2nd World Conference on Smoking and Health).

- 1974 Expert Committee on Smoking and Health.
Recommendations for the 3rd World Conference, sent out by Sir George Godber, have become official guidelines, ie:

- 1975 provisions:

. to resist or prohibit all tobacco advertising or promotion;

. to require all packs and advertising to specify constituents;

. to require warning labels on packs and advertisements;

. to adopt a system of differential taxation based on constituents;

. to adopt consumer policies, ie. in particular periodic tax increases;

. to prohibit tobacco sales to young people;

. to prohibit the use of vending machines.

Also the prohibition of smoking in health establishments:

. "protection" of the non-smoker at work;

. a total ban on smoking in public transport and buildings;

. "protection" of children from contact with smokers.

- 1976 The World Health Assembly recommends that governments evaluate and control consumption and

. provide assistance in formulating, implementing and assessing anti-smoking policies and programmes;

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Source: https://www.industrydocuments.ucsf.edu/docs/nhjl0000

duty, Member States may fix a scale of retail selling prices.

- By the final stage, rules for collecting excise duty shall be harmonized, in principle by means of tax stamps.

The following special provisions applicable during the first stage of harmonization are included under Title II of the first directive:

- The first stage of harmonization should cover a period of 24 months, from July 1, 1973.

- Both proportional and specific tax elements should be applied in such a way that the specific component is situated within a range of 5% to 75% of the aggregate amount of the proportional and specific excise duty (V.A.T. excluded) with reference to the most popular price category on 1.1.1973.

The first stage of harmonization was due to end on 30.6.1975 and the rules were to be applied to cigarettes only. The Council was supposed to adopt a directive one year prior to completion of the first stage, ie. by 30.6.1974, laying down the special criteria for the next stage.

However, amendments to Directive 464/72 were issued in 1974, 1975 and 1976 *(1)* which prolonged the deadline for completion of the first stage of harmonization from *(a)* 30.6.75 to 30.6.76; *(b)* 30.6.76 to 30.6.77; and *(c)* 30.6.77 to 31.12.77.

Why did completion of the first stage of harmonization take five solid years longer than originally planned? Two problems had to be solved:

a) EEC enlargement had brought in three countries with yet other cigarette tax systems. Denmark applied a multi-tier specific system, while the UK and Ireland taxed cigarettes by weight of raw tobacco used in their manufacture. All three countries accepted the terms of the first directive but the UK and Ireland were given five years to implement its provisions (until 1.7.78).

b) The difficulties encountered in reconciling the two systems of excise duty - specific and proportional - were greater than foreseen. The importance of

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*(1) (a) Council Directive 318/74/EEC of 25.6.74; OJ N° L 180/30, 3.7.74*
*(b) Council Directive 786/75/EEC of 18.12.75; OJ N° L 330/51, 24.12.75*
*(c) Council Directive 911/76/EEC of 21.12.76; OJ N° L 354/33, 24.12.76*

Source: https://www.industrydocuments.ucsf.edu/docs/nhjl0000

*Second in the league after Italy come Belgium and France, but among all 20 European countries they only rank eleventh.*

*Only in the UK, however, must the tar content of tobacco be clearly marked on the packet. Due to research undertaken in the UK, the average tar content has decreased by ten percent for all tobacco products sold.*

*Another lead taken by the UK and the Netherlands has been to persuade the majority of doctors in these countries not to smoke. In place of sermons, setting the right example is the best way of getting results.*

*Non-promotional information*

*"The only exception to the advertising ban should be in the tobacconists' shops themselves where the consumer should be able to inform himself as to the various characteristics of tobacco products in relation to standards set at the Community level. Information should however be complete. Each packet of cigarettes should carry an indication of the tar, nicotine and carbonic acid content as well as mention the risks which the product presents to the consumer.*

*"In addition to the preventive measures, the C.C.C. has proposed others which will discourage smoking and reduce the level of pollution for non-smokers. To realise this double objective, smoking in certain public places should be banned (buses, underground, cinemas, museums, public libraries, food shops, clinics, doctor's waiting rooms, public offices, etc.). In other places, no smoking areas should be established (trains, coaches, planes, airports, hotels, restaurants, bars, cafés, shops, etc.).*

*"A further useful way of dissuading smokers is to remove automatic cigarette machines, ban cut-price sales of cigarettes to soldiers and strictly ban the sale of cigarettes to minors.*

*"To help people to give up smoking, there are a number of clinics and anti-smoking centres in operation, and there are a variety of products available on the market. The consumer should be informed of their degree of effectiveness, and further research should be undertaken to increase the number of aids available to people wishing to give up the habit.*

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Source: https://www.industrydocuments.ucsf.edu/docs/nhjl0000

- Figures for high mortality; smokers versus non-smokers.
- List of studies performed.
- Diseases related to cigarette smoking (cancer, coronary and cardiovascular pathology, motherhood and tobacco abuse, ulcerous diseases of the digestive tract, chronic bronchitis and pulmonary emphysema), synergistic effects of smoking and contraceptive drugs, certain occupational risks (asbestos), tobacco intoxication in non-smokers, economic costs.
- Conclusions (need for legal regulations based on Art. 100 of the EEC Treaty *(4)*; need for educational measures).

This report was the basis for the C.C.C.'s opinion on Community legislative measures concerning the harmful effects of tobacco *(5)*.

Based on the Group's report, *"Euroforum"* (published by the Commission) carried the following article in its October 1977 issue (N° 38/77 of October 25, 1977):

*"KILLER IN EVERY PACKET"*

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*"Tobacco kills four times as many people as car accidents. This astonishing fact which has been established by Britain's Royal College of Physicians should change our attitude towards smoking which, though less dramatic in its impact than multiple pile-ups on our motorways, is far more dangerous. Whereas in recent years drivers have been persuaded by threat or reason to drive more carefully, the war against smoking is only in its infancy.*

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*(2) The C.C.C. is a consultative body to the special EEC Commission Environment and Consumer Protection Service; it was set up by Commission Decision 73/306/EEC of September 25, 1973 (OJ N° L 283 of October 10, 1973, p. 18), and amended by Commission Decision 76/906/EEC of December 3, 1976 (OJ N° L 341 of December 10, 1976, p. 42).*

*(3) Annex 30a*

*(4) EEC Treaty: Chapter 3 - Approximation of laws.*
*Article 100 - The Council shall, acting unanimously on a proposal from the Commission, issue directives for the approximation of such provisions laid down by law, regulation or administrative action in the Member States as directly affect the establishment or functioning of the common market.*

*(5) Annex 30b*

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Source: https://www.industrydocuments.ucsf.edu/docs/nhjl0000

It is impossible to draw any valid conclusions from an epidemiological point of view. However, there have been significant new developments in epidemiological research in the UK, as well as new methods of prevention.

e) Research

Epidemiological and medical studies are being conducted in the Member States, although not always in the most rigorous fashion. The EEC Commission feels that the French and British efforts have yielded the most complete knowledge of the effects of tobacco, even to the point of discovering the deep, underlying reasons which lead some people to become smoking addicts. The Commission takes the view that it would be a good thing if a number of joint actions were undertaken at the European level concerning the coordination of epidemiological, medical and psychological research, and if a start were made with collating the results of research in other countries.

For the present, the Commission intends, following a meeting of EEC Health Ministers, to concentrate on two tasks:

- the establishment of a common methodology enabling the results and effectiveness of health education campaigns to be compared;

- following the establishment of such a common methodology, to study the characteristics of cigarette smoking in young people, to assess the effects of smoking on their health in relation to their family background and other social and economic factors, in order to come to an understanding of the nature and development of tobacco smoking.

f) Summary

The situation in the different Member States is summarised in table 29 with respect to political, social and anti-smoking factors, advertising restrictions, health warnings and the ban on smoking in certain places.

2. International organisations

The following international organisations aim at curbing the use of tobacco products:

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Source: https://www.industrydocuments.ucsf.edu/docs/nhjl0000

are almost impossible to reconcile with the cigarette smoking causal hypothesis. These trends, as described last year, include such anomalies as incidence rates that rise, fall or remain stable depending on disease, sex and race.

"Moreover, new evidence indicates that a number of these cancers may be associated with alcohol consumption and that the association of alcohol with cigarette smoking may not only confound the relationship but may hide other correlations. In addition, recent work has implicated occupational exposures and nutritional factors in the etiologies of some of these cancers."

(viii) Cardiovascular disease

"A fair appraisal of the evidence, examined in its entirety, indicates that the risk of coronary heart disease is strongly associated with genetic and lifestyle factors.

"In 1977, the director of the governmental agency responsible for cardiovascular research told a Congressional committee that *'we still don't know the etiology of arterio-sclerosis and hypertension'* and that his researchers are still testing the *'hypothesis...that lowering cholesterol and cessation of smoking will delay or prevent the onset of heart disease'* (emphasis added). Meanwhile, statisticians were finding that death rates for heart disease continued the decline that begain in the late 1960s - in all age groups, in both sexes and in both whites and non-whites.

"There was new evidence in 1976, 1977 and 1978 that lifestyles, personality patterns and hormonal imbalances are implicated in coronary disease.

"An important development in cardiovascular research was reported in 1977, by a group of researchers who reported that they were unable to duplicate their previous findings, which they said had suggested a causal role of carbon monoxide (CO) in the development of cardiovascular disease. In a presentation describing their findings, they said *'no direct toxic effect of CO'* could be demonstrated."

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Source: https://www.industrydocuments.ucsf.edu/docs/nhjl0000

. cooperate with other organisations in all efforts to reduce smoking;

. in particular, to work out crop diversification strategies to offset the economic repercussions of a reduction in tobacco growing.

- 1979 4th World Conference (Scandinavia).

b) International Union against Cancer (UICC) - Geneva

A world association of cancer societies and research institutions, with 70 national affiliates including organisations from the nine EEC Member States.

- 1974 Florence, Italy. Start-up of activities in respect of smoking and health.

- 1975 Cooperated in 3rd World Conference on Smoking and Health in New York.

- 1976 Basis for worldwide anti-smoking campaign established:

. workshops to centralise and disseminate information;

. handbook on how to implement policies and take action.

Basic objectives:

. to achieve lower smoking rates;

. to encourage non-smokers to remain non-smokers;

. to achieve the cessation of all promotional activities in favour of cigarette smoking;

. to encourage those who have not stopped smoking to minimise their exposure to certain components of tobacco smoke;

. to take any appropriate measures to reduce smoking rates, including warning labels, taxation, restriction of smoking and opportunities for and support of non-smokers' rights.

- 1977 Goals were:

. to create a world without smokers in 20 years;

. to force tobacco-growing countries to switch to other crops within 20 years;

. to force cigarette manufacturers to acquire other business interests.

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Source: https://www.industrydocuments.ucsf.edu/docs/nhjl0000

b) Market behaviour under fixed taxation

Fixed (or specific) taxation taxes all cigarettes with an equal amount of duty, regardless whether the individual product is cheap or expensive. Tax cannot be varied by altering price or product. There is no fiscal advantage in using poor quality components. Allowing a minimal effect for VAT, this enables market forces to act on a normal price and quality basis. Specific taxation is equitable. It allows high levels of taxation by the government without leading to market distortion and without placing certain manufacturers at a disadvantage to others. It has no effect on absolute price differences but relative retail price differences will be reduced and will depend on the level of taxation added.

c) Market behaviour under proportional taxation

Proportional taxation may be taken to include ad valorem excise duty and VAT. Each of these taxes can be expressed as a proportion of the retail price and aggregated into a combined percentage of the retail price. In contrast to specific taxation, proportional taxation maintains relative price differences.

Total proportional tax can be expressed as a percentage of retail price or as a multiplier on the non-proportional tax part of the retail price:

$$\text{multiplier} = 1 + \frac{\text{tax rate \%}}{100\% - \text{tax rate \%}}$$

Thus a proportional tax of 75% of retail price would correspond to a tax multiplier of 4. That is, retail price will be four times the actual cost of the material put up for sale (including any margins and the specific element of the tax). The following table illustrates this effect for a number of notional retail values and cost prices and also gives the range of multipliers for several levels of proportional tax.

| | | | | |
|---|---|---|---|---|
| Case 1. | Retail price | 100 | 95 | 90 |
| 80% tax | Tax | 80 | 76 | 72 |
| (multiplier = 4) | Cost price | 20 | 19 | 18 |
| | | | | |
| Case 2. | Tax | 20 | 19 | 18 |
| 20% tax | Cost price | 80 | 76 | 72 |
| (multiplier = 1.25) | | | | |

| | | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| Tax: proportional % : | 20 | 30 | 40 | 45 | 50 | 60 | 70 | 80 |
| Multiplier: | 1.25 | 1.43 | 1.67 | 1.81 | 2.00 | 2.50 | 3.33 | 5.00 |

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Source: https://www.industrydocuments.ucsf.edu/docs/nhjl0000

Women and lung cancer

"A comparison of international lung cancer patterns raises serious questions about the claim that the larger number of women smoking today accounts for their rising lung cancer rates. Such a comparison indicates that lung cancer patterns in women are different in various countries and are dissimilar from male patterns. Even when allowance is made for the later popularity of smoking among women, there is no consistent trend of increasing mortality rates.

"Some scientists have questioned whether the recent increase in lung cancer mortality is more artificial than real. These queries have been made because physicians appear to be ordering more diagnostic tests for women they know to be smokers. Therefore, it may be possible that more lung cancer among women is being diagnosed because more reliance is being placed on diagnostic techniques not available in the past.

"In addition, a role for occupational and/or other environmental exposures has been suggested by research conducted in heavily industrialised countries."

(v) Cancer in the work place

"The almost exclusive focus on individual smoking habits in the study of disease may have delayed needed research into possible occupational and environmental causes.

"The announcement last September by HEW Secretary Califano that at least 20% of all cancers may be occupationally related brought angry denials from anti-smoking researchers and organizations whose own estimates differed significantly from the new estimate. The authors of the report referred to by the Secretary actually estimated that between 21% and 38% of all cancers were occupationally related. They attributed a sizable proportion of all occupational cancers to asbestos exposure and noted that *'perhaps the most important lesson to be learned from the asbestos story is that a major health disaster can develop while its early manifestations are lost by being attributed to other factors.'*"

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Source: https://www.industrydocuments.ucsf.edu/docs/nhjl0000

d) The Nordic Council - Helsinki, Finland

The Nordic Council became active in the smoking and health arena in 1970, and is mentioned here inasmuch as Denmark is both a traditional Nordic country and a member of the European Community.

Its key anti-smoking recommendation was adopted in 1972:

*"The Nordic Council requests the Governments of Denmark, Finland, Norway and Sweden to establish prohibition against tobacco advertising and to give effective information on the adverse effects of tobacco smoking on health, especially towards children and young persons and to require informative labelling of tobacco packages."*

A joint Nordic working party was set up in 1974 with instructions to summarise and analyse the results of this recommendation and its report, issued in 1975, contained short and long-term views for effecting further Nordic cooperation on smoking and health. Some of the Nordic country laws regulating tobacco products are the most severe in existence.

3. The views of the tobacco industry

a) General comments

The tobacco industry has reacted in several ways to the statements and actions of the various national and international organisations and to epidemiological and medical findings.

The industry has questioned the reliability of the statistical evidence produced: it stresses that these data do not provide answers as to cause and effect concerning cancer and heart diseases. It has also reacted to the efforts of the anti-smoking lobby to make smoking socially unacceptable. Finally, it has drawn attention to the fact that advertising does not induce people to start smoking or to increase consumption.

On the other hand, the industry has reacted positively to changing consumer demand for filter-tipped cigarettes and lower condensate and nicotine content by developing new product lines.

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Source: https://www.industrydocuments.ucsf.edu/docs/nhjl0000

the problem was discussed under section 2. above. The monopoly market and the "free" market have diametrically opposed views regarding their interests and free competition.

Another point to bear in mind is that the report *(1)* referred to earlier in this study was prepared on behalf of the European Commission to examine the possible effects of changes in the excise duties levied on cigarettes during harmonization, and it made a valuable contribution to discussions on the second stage of harmonization.

c) Second stage - EEC Council Directive 805/77 *(2)* - and final stage

The fourth amendment to Council Directive 464/72 *(2)*, while again extending the first stage (until 30.6.1978) to a total of five years beyond the initial deadline, also contained provisions for stage two.

The most important decision concerned the inclusion of turnover tax (V.A.T.) into the calculation of the ad valorem element of the total tax burden. Article 1 of Directive 464/72 was amended accordingly.

Directive 805/77 stipulates the following:

- The second stage of harmonization of the structures of the excise duty on manufactured tobacco shall run from July 1, 1978 to December 31, 1980.

- The amount of the specific excise duty on cigarettes may not be less than 5% or more than 55% of the amount of the total tax burden resulting from the aggregation of the proportional excise duty, the specific excise duty and the turnover tax levied on these cigarettes. The amount of specific excise duty shall be established by reference to the most popular brand's price category on January 1 each year, beginning on January 1, 1978.

- Ireland was authorized to apply a specific element not more than 60% of the total tax burden until December 31, 1978.

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*(1) "Cigarette Tax Harmonization" by METRA Consulting Group Ltd, London, for the European Commission (N° 2 in Taxation Study series 1975*

*(2) Council Directive 805/77/EEC of December 19, 1977; OJ N° L 338/22 of 28.12.77 - Annex 25.*

Source: https://www.industrydocuments.ucsf.edu/docs/phjl0000

# CHAPTER 8

## CONCLUSIONS AND FUTURE PROSPECTS

1. General considerations
2. Raw materials
3. Excise taxes
4. Monopolies
5. Consumerism
6. Final comments

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Source: https://www.industrydocuments.ucsf.edu/docs/mhjl0000

(vi) Lung cancer

"The failure to consider critically 1) important diagnostic advances, 2) changes in the reported frequencies of lung cancer cell types and 3) trends in cigarette consumption and lung cancer mortality data raises serious questions about any conclusions regarding smoking.

"What some have called the "epidemic" in lung cancer mortality in this century has been linked by some to the increased popularity of smoking. However, it has been speculated that this reported increase may in fact have been created largely by improvements in diagnostic techniques - in other words, more lung cancer cases have been reported because physicians were better equipped to find them. Even if at least a portion of the "epidemic" is real, trends in lung cancer death rates cannot be satisfactorily explained by cigarette consumption patterns.

"A British researcher has reported a similar phenomenon in the United Kingdom that he contends is more consistent with the constitutional hypothesis than the smoking-causation theory.

"An apparent change in the reported frequencies of lung cancer cell types was observed in 1977. A researcher noted a shift in the histologic types of lung cancer found at a major cancer centre - from epidermoid, or squamous-cell, which has been more strongly associated with cigarette smoking, to adenocarcinoma, which is only weakly associated. Up to this point, at least, adenocarcinoma has been the predominant histologic type of lung cancer reported in women and in non-smokers. Because of this reported increase in the lung cancer cell type not generally associated with cigarette smoking, serious doubt is cast on the role of smoking in the development of this disease."

(vii) Other cancers

"The establishment of any relationship between smoking and cancers of the larynx, esophagus and bladder must involve considerable guesswork, because of the vastly different incidence patterns and trends of these diseases and multiple suspected causes.

"Incongruities in the trends of incidence rates for "other cancers", such as cancers of the oral cavity, bladder, esophagus, larynx and pancreas,

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Source: https://www.industrydocuments.ucsf.edu/docs/nhjl0000

b) Statements of the Tobacco Institute

On January 10, 1979 the Tobacco Institute published a small volume entitled "Smoking and Health - 1964-1979 - the Continuing Controversy", stressing that its publication had been decided *"in the belief that public discussion about tobacco smoking is in the public interest and that the smoking controversy must be resolved by scientific research."* The content of the volume is set out below.

(i) Overview - Smoking and Health 1979

"Fifteen years have passed since the release of "Smoking and Health" - the first and perhaps the most widely publicized of a series of such reports prepared by the Department of Health, Education and Welfare. Despite millions of dollars spent since that time both by the government and the tobacco industry on smoking and health-related research, many questions about the relationship between smoking and disease remain unanswered. Now, as in 1964, there are statistical relationships and several working hypotheses, but no definitive and final answers.

"Despite claims to the contrary, no one - in government or industry - can explain the reported associations of smoking with lung cancer, heart disease, emphysema, low infant birth weight, and yes, even cancer of the pancreas.

"No-one knows why - or how - a cancerous growth begins, whether it is in the lung, pancreas, or bladder.

"No-one knows why the walls of human arteries become clogged with lipids or how clots that can lead to stroke get their start.

"No-one knows why pregnant women who smoke have lighter infants on average than women who don't smoke, or why some women, whether they smoke or not, have smaller infants.

"Scientists have not proven that cigarette smoke or any of the thousands of its constituents as found in cigarette smoke cause human diseases.

"Nor have scientists demonstrated that the healthy non-smoker is harmed by his neighbour's cigarette smoking.

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Source: https://www.industrydocuments.ucsf.edu/docs/nhjl0000

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Source: https://www.industrydocuments.ucsf.edu/docs/nhjl0000

| Product | Normal or basic rate | Minimum receivable |
|---|---|---|
| b) Cigarettes | 44.84% of retail pr. + 2.714 FF/1000 | 30 FF/1000 |
| c) Smoking tobacco *(1)* | 37.50% of retail pr. | 12 FF/kg. |
| d) Pinching tobacco | 31.40% of retail pr. | 8 FF/kg. |
| e) Chewing tobacco | 19.60% of retail pr. | 7 FF/kg. |

*(1) When, by applying the normal tax, the imposition passes a threshold of 112 FF/1000 for cigars with natural wrapper, 130 FF/1000 for cigars with reconstituted wrapper or 35 FF/kg for smoking tobacco, that part of the excess retail price which corresponds to the threshold duty is taxed at a reduced level which is 14.70% and 17% respectively for cigars with natural and reconstituted wrappers and 27.80% for smoking tobacco. The amounts thus determined are added to the threshold duty.*

V.A.T. (comprising the additional tax)
A VAT and additional tax of 25.45% of retail price are applied to all tobacco products.

(vi) Italy

Consumer duties

Following a decree of the Finance Minister on 18.4.1959, modified repeatedly since then and most recently on 1.4.1978, tariffs have been established in Italy according to class of product and price category both for domestic and imported products. The amounts include the consumer duty, V.A.T. (18% of tariff price excluding the tax itself), retail discounts, monopoly distribution costs, transfer price and selling price to the final customer.

As for the fiscal component, the consumer duty and V.A.T. amounts correspond to percentages of the retail price. These vary between 30.19% and 46.12% for ordinary cigars and cigarettes; between 63.70% and 65.22% for more expensive (imported) cigars; between 63.30% and 65.46% for quality cigarillos, and between 71.86% and 74.90% for smoking tobacco.

For cigarettes, Italy complies with the two EEC Council directives on fiscal harmonisation (1st and 2nd directive) so that the consumer duty currently contains both a specific and an ad valorem component, viz. 472 lire/1000 cigarettes (per kg.) (this equals 5% of the excise duty on the most popular brand), plus the ad valorem element of 57.20% on the price to the public (tariff price). By decree of September 1975 the consumer duty was slightly reduced, and the re-

Source: https://www.industrydocuments.ucsf.edu/docs/nbjl0000

to have been expressed during the preparatory sessions for the meetings of EEC Health Ministers. They may have been the reason which prompted Ministers to state generally (including tobacco advertising) that steps should be taken by the Commission without having recourse to EEC legal instruments, such as regulations and directives.

Meanwhile, the situation is still evolving and it is impossible at this stage to predict the future course and extent of activities in this particular field, and its impact on the tobacco industry.

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Source: https://www.industrydocuments.ucsf.edu/docs/mnjl0000

*kills about 35,000 people per year prematurely - 15,000 of these through cancer. It reduces the life of a normal smoker by about nine years. The main causes of death in order of priority are: lung cancer, bronchitis and emphysema, and cardiovascular illnesses.*

*"Finally, the use of tobacco during pregnancy can have disastrous consequences: twenty percent of miscarriages can be attributed to smoking. Even if the child succeeds in reaching daylight, it may show signs of addiction to tobacco, slower growth rate and even learning difficulties. It is not enough that a pregnant woman stops smoking, however. She must also avoid the smoke of her neighbours.*

*"One encouraging note is that once one has given up smoking, there is always a gradual decrease in the cancer risk. And after an attack of coronary thrombosis, the risk of a further attack can be reduced by half, simply by avoiding tobacco.*

*No more advertising*

*"With such a list of the evils attributable to smoking, the obvious question is what should be done. The C.C.C. has proposed a number of measures and the first concerns advertising. They recommend that tobacco advertising should be strictly banned; no more tempting adverts in newspapers or on billboards, no more radio and TV spots; no more disguised publicity in the form of attractive hostesses who give away mini-packets of cigarettes in promotional schemes.*

*"The survival of the media is a serious problem, but in those countries where cigarette advertising has been banned or restricted (in Italy and the UK, for example), the free press does not seem to have suffered too badly. In all Community countries, however, there are an increasing number of artistic and sporting events being sponsored by cigarette companies and the C.C.C. recommends that these be banned as well.*

*Gold medal for Italy*

*The Community's champion in the fight against smoking is Italy. In June 1976 the country passed legislation totally banning the use of tobacco in the majority of public places. Tobacco advertising has also been banned since 1962.*

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Source: https://www.industrydocuments.ucsf.edu/docs/nhjl0000

As regards public (passive) smoking, the memorandum establishes that *"contrary to the report's unfounded claims in the section on tobacco intoxication in non-smokers, there is no persuasive scientific evidence that tobacco smoke in the atmosphere is harmful to the non-smoker."* A special paper *(1)* on this issue was attached to the memorandum. It concludes the following:

*"This is not to say that perfectly normal people are not sometimes annoyed or irritated by atmospheric tobacco smoke. Especially in places that are poorly ventilated, concentrations of atmospheric tobacco smoke might themselves or - more likely - in combination with other environmental influences give rise to eye or nasal irritation.*

*"Whatever the basis of the over-reaction of some non-smokers to smoking, one thing is clear: atmospheric tobacco smoke has not been proven hazardous to the health of non-smokers. Accordingly, as Dr. Pimm noted in connection with his research on asthmatics exposed to tobacco smoke, if smoking is to be restricted it will have to be on the basis of annoyance and visual disturbance and not on health grounds."*

With reference to the economic costs of smoking, the memorandum states that the C.C.C. report *"relies heavily upon an American study by the National Center for Health Statistics. However, even the Director of the Center did not claim that the data established causal relationships, as Professor Theodor D. Sterling, now Director of the Computer Science Program at Simon Fraser University in Vancouver, British Columbia, told U.S. Congress in 1969."*

The Association of German Tobacco Manufacturers has stated the following in a letter to the Commission *(2)*:

*"The German government, upon being asked whether it would publish mortality statistics on the consequences of smoking, stated before the German Parliament:*

*'In contrast to traffic victims or certain diseases which can be linked with a single cause, health damages caused by smoking are diseases which may be attributed to other causes as well. For this reason the Federal government at this moment sees no possi-*

*(1) Annex 32*

*(2) Annex 32b (translation)*

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Source: https://www.industrydocuments.ucsf.edu/docs/nbjl0000

*Immediate campaign*

*"Consumer awareness would seem to be a good starting point for an anti-smoking campaign. The C.C.C. has consequently proposed a series of health information campaigns directed not only towards smokers, but also to people likely to dissuade them (doctors, teachers, parents). For the present the C.C.C. requests the European Commission to launch a major information campaign involving the representatives of consumer organisations."*

(ii) Reactions of the tobacco industry

The tobacco industry extensively responded to the C.C.C. report and the article in Euroforum in a memorandum dated October 5, 1978, which was submitted to the Commission *(1)*.

The memorandum states in its introduction that the C.C.C. report makes unproven claims about smoking and disease, relying primarily upon reported statistical associations. It should be emphasized, according to the memorandum, that such associations do not establish a causal relationship. Moreover, it argues, the report overlooks relevant scientific data which contradict the smoking-disease hypothesis. The memorandum then sets out to provide ample, though by no means exhaustive, evidence that the smoking/health question is as yet unresolved and that real answers will only be found through unbiased scientific inquiry. The memorandum discusses the relationship between smoking and mortality, disease generally, cancer, cardiovascular disease, pregnancy, ulcers, chronic obstructive lung disease and blood coagulation, giving 209 references to research papers in the areas concerned. The memorandum finally states:

*"The claims contained in the report represent an attempt to provide simple answers to the complex questions of disease causation. In denying the existence of a legitimate and continuing scientific controversy, the report also does a disservice to researchers who are examining the numerous issues involved. Clearly, it is inappropriate to recommend large-scale, remedial measures when basic issues are unresolved. A more rational approach is to pursue scientific answers that can be found when both government and industry alike support quality research in the smoking and health field."*

(1) *Annex 31*

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Source: https://www.industrydocuments.ucsf.edu/docs/nhjl0000

*bility of publishing mortality rates for diseases caused by smoking which are precise enough to fulfil the requirements generally expected from statistics of this nature.'*

*(Parliamentary record, BT-Drucksache 7/3937).*

*"Meanwhile, the international scientific world as well as responsible politicians have learned that immoderate smoking has to be regarded as only one risk factor among many others, the importance of which has not been scientifically established. In general, all diseases of our modern civilisation are related to a whole bundle of risk factors. Once again, we may quote the German government with its latest Programme for the Advancement of Health Research and Development, 1978-1981:*

*'The diseases prevailing today in most cases may not be linked with a single cause, so that a causal therapy and a precisely aimed control of the causes are not possible. On the other hand, the different frequency of diseases and their dependence on social class and groups, age group, region, occupation group, and life style indicate risk factors which have to be considered as a condition of their origin. Hence, risk factors arise from a multitude of causes, among which environmental conditions, occupational stress, individual behaviour, genetic predisposition, and acquired disposition.'"*

The Association goes on to state:

*"The report turns out to be totally unscientific and biased when it comes to passive smoking. Serious international scientific researchers in this field, united in their judgment, state that under realistic circumstances of life passive smoking is no hazard to the normal non-smoker. To cite only one out of a great number of positive voices, we refer to the German Association of Industrial Medicine, the leading and authoritative body representing all German doctors in industry and social medicine. On November 9, 1977, it unanimously adopted a resolution concerning passive smoking which stated among other things: 'According to our knowledge up to now there does not exist any clear and objective scientific proof of health damage due to passive smoking to any part of the population.' (Published in: Arbeitsmedizin-Sozialmedizin, Präventivmedizin 2/1978, page 33)."*

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Source: https://www.industrydocuments.ucsf.edu/docs/nhjl0000

Mr. Jahn:

- emphasized own fitness after giving up 80-120/day;
- agreed with need to create safer cigarettes;
- concern for non-smokers (passive smoking).

Mrs. Squarcialupi:

- advertising is the culprit;
- distribution of cigarettes in the Third World is dangerous;
- politicians should act responsibly in order to limit smoking.

Mr. Bethel and Mr. Ellis:

- are low-tar cigarettes the answer?

Mr. Ajello:

- called for an information campaign on smoking risks;
- are there real differences of opinion between experts and scientists on the dangers of smoking and is there a direct link between smoking and cancer?

Mr. Brown:

- can one persuade people against their desires?
- no point in further campaigns: people do not take notice; so, make it uncomfortable for smokers instead.

Mr. Spicer:

- stress is the worst thing of all: to stop smoking leads to more stress and this is bad.

. The experts' replies

Professor Celli:

- difficult to get people to stop smoking, therefore:
  = information to young people on health questions; teach people not to smoke;
  = enforce laws on non-smoking in public places.
  Opinion:
  = there are no "safe" cigarettes;
  = chewing gum is also bad and causes ulcers.

Professor Schmähl:

- Mrs. Squarcialupi's quasi-political approach is all-right; but stop people smoking in public;

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Source: https://www.industrydocuments.ucsf.edu/docs/nhjl0000

The Commission's reply, by Commissioners Vredeling and Burke, was cautious and indicated that action had already been put in hand to make an inventory of measures being taken in the Member States. From the consumer's point of view, reference was made to work on a directive on advertising (see under 4) below) and the newly-introduced additional tax on cigarettes with a condensate content of more than 20 mg in the UK.

(ii) Discussion of carcinogenic effects

1. Hearing of experts

In May 1978, the European Parliament's Committee on the Environment, Public Health and Consumer Protection organised an informal hearing on environmental carcinogens *(1)*, chaired by Mr. Jahn (Germany, Christian Democrat).

Two experts were called to speak on "the carcinogenic effects of cigarette smoke and international control measures": Professor J. Clemmesen (Copenhagen) and Professor D. Schmähl (Heidelberg). The discussion was wide-ranging, not very conclusive, and the main points made by each speaker are given *seriatim* below:

. Introductory statements from the reports

Professor Schmähl:

- explained the toxic mechanism;
- not only smoking, but also smoking habits must be considered;
- impossible to persuade people to give up;
- lower tar content of cigarettes a more realistic goal;
- anti-smoking campaigns should be stepped up;
- industry should be persuaded to produce cigarettes "as safe as possible" (condensate content of less than 8 mg).

Professor Clemmesen:

- described 20 years' study on smoking/cancer relationship.

. Opinions of Members of Parliament

Mr. Spicer:

- a pity new non-tobacco smoking mixture (NSM) fell by the wayside: should a new campaign be launched?

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*(1) The other carcinogens discussed were: hydrocarbons, plant protection products, asbestos dust, chemical additives to food, industrial dust, pharmaceutical products, harmful environmental substances.*

Source: https://www.industrydocuments.ucsf.edu/docs/nhjl0000

(ix) Chronic obstructive pulmonary disease

"The uncertainties and unknowns in the medical understanding of COPD permit no firm conclusions about smoking.

"Chronic bronchitis and emphysema are highly complex and poorly understood diseases. Despite serious gaps in the medical knowledge in this area, claims abound that these diseases are caused by smoking. The validity of such claims is challenged by a recent National Heart, Lung and Blood Institute statement that *'the exact etiology of emphysema and other chronic lung diseases is unknown...'*"

4. Action at Community level

Towards the end of 1976, which coincided with the end of François-Xavier Ortoli's Presidency of the European Commission, Vice-President Hillery told the European Parliament during a discussion on the Commission proposal for a directive on liability for defective products *(1)* that he did not think Community action in the field of health and smoking would be more effective than national initiatives and that no initiative was envisaged by the Commission in the anti-smoking campaign.

a) Environment and Consumer Protection Service of the Commission and the Consumers' Consultative Committee (C.C.C.)

(i) The C.C.C. report

During 1977, however, the C.C.C. set up by the Commission in 1973, whose operations were expanded in 1976 *(2)*, included a clause on the harmful effects of tobacco in its 1977-1979 programme.

The C.C.C. had been invited to give an opinion on advertising of tobacco products, product liability and unfair and misleading advertising. The C.C.C. set up a study group on tobacco chaired by Mr. De Grave, which prepared a report not so much concerned with advertising of tobacco products as with "Tobacco and the Health of the Consumer" *(3)* in general. This report contained the following chapters:

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*(1) Question time at the European Parliament session of September 15, 1976. Furthermore, in reply to a question by Mr. Lenihan, the Commission indicated that no initiative was yet being envisaged as regards the anti-smoking campaign (Official Journal C 177 of August 2, 1976, p. 16).*

*(cont'd on p. 172)*

Source: https://www.industrydocuments.ucsf.edu/docs/hhjl0000

Tax-free shops

Tax-free shops in airports, on board ships and ferries etc. existed before the EEC Treaty establishing a customs union between the Member States entered into force in 1958. Goods are sold to travellers for export duty-free, whether they travel to another EEC Member State or to a third country. The European Commission argues that the establishment of a single customs territory and the adoption of fiscal provisions concerning travellers should have resulted in the abolition of tax-free sales to intra-EEC travellers. Only goods released into free circulation should be transferred from one Member State to another. Goods in free circulation are those manufactured within the Member States or, if they have been imported from third countries, those for which import formalities have been completed and on which any customs duties or charges having equivalent effect have been paid (Art. 10 of the EEC Treaty *(1)*).

Furthermore, no remission may be granted in respect of V.A.T. and excise duty *(1) (2)*.

Duty-free sales have increased over the years and have extended to more and more articles. In some countries, tax-free sales ships taking travellers outside territorial waters for two hours have had a considerable turnover.

Over the years, the Commission has undertaken a number of initiatives

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*(1) The Commission stated its position in reply to a Parliamentary question (OJ N° C 72 of 16.3.79, p. 6):*

*"1. Article 6(1) of Council Directive 69/169/EEC of 28 May 1969, as amended by Directive 72/230/EEC of 12 June 1972 and Directives 78/1032/EEC and 78/1033 of 19 December 1978, required Member States to take, in respect of intra-Community travel, 'appropriate measures to avoid remission of tax being granted for deliveries to travellers whose domicile, habitual residence or place of work is situated in a Member State and who benefit from the arrangements' provided for in that Directive. In other words, the Directive applies to goods that are contained in travellers' personal luggage and that can be imported free from turnover tax and excise duty subject to the limits laid down in Articles 1, 2 and 4 of the said Directive.*

*Article 6(2) of the same Directive stipulates, however, that Member States shall, upon application by travellers, grant remission of V.A.T. on goods within an individual value of more than 180 EUA. No remission may be granted in respect of excise duty.*

*These provisions also apply to sales made at duty-free shops."*

*(2) The Commission states that only Germany levies 12% V.A.T. on these sales (reply to a Parliamentary question, OJ N° C 72 of 16.3.79, p. 12)*

Source: https://www.industrydocuments.ucsf.edu/docs/nhjl0000

(iii) Reactions of the retail sector

At the general assembly of the Confederation of European Tobacco Retailers (C.E.D.T.) in London, May 21-24, 1978, the delegations from national organisations in the UK, Belgium, France, Luxembourg, Monaco, the Netherlands, Spain and Germany discussed the problem of "Smoking and Health". The assembly approved a resolution on the "anti-tobacco" programme drawn up by the European Commission in the following terms:

*The C.E.D.T. considers:*

- *The information campaigns on tobacco are more and more abandoning objective and scientific reasoning to become crusades destined to arouse the public.*

- *The C.C.C.* (see under (i) above), *on the pretext of protecting the consumer, strongly recommends important restrictions in the use of tobacco.*

- *The "anti-tobacco" organisations excessively and unjustifiably denigrate tobacco and the smoker and tend to make the habit of smoking into something reprehensible.*

- *Equally excessive and unjustified opposition from other quarters, which show themselves as being influenced in various ways by "anti-tobacco" propaganda, tend to control trade in tobacco via discriminatory legislative action, thus placing the trade's economic survival at risk.*

- *The Member States draw important resources from the sale of tobacco.*

The C.E.D.T. adopted the following resolution:

- *Conscious of its responsibilities concerning the socio-economic destiny of more than half a million European tobacco retailers and their families, (the C.E.D.T.) calls strongly on political bodies and family organisations objectively to take account of a situation which has become unilaterally exploited to the detriment of consumers and the tobacco trade.*

- *The C.E.D.T. expresses its strong opposition to the major points of the "anti-tobacco" programme proposed by the C.C.C. and endorsed by*

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Source: https://www.industrydocuments.ucsf.edu/docs/nhjl0000

- doping
- contagious diseases and vaccination.

"Since the Health Council meeting, the question of Community action in relation to tobacco was raised again in the European Parliament. My colleague, Mr. Vredeling, and I answered a question put down on behalf of the Committee on the Environment, Public Health and Consumer Protection. It might be useful if I set out here the main points of our answer, since it sums up the Commission's views and the activities currently under way.

"Firstly, the Commission has carried out a number of criterial studies to determine the exposure effect relationships for a number of pollutants, some of which (eg. carbon monoxide, nitrogen oxide) occur in tobacco smoke.

"Secondly, the Commission intends to carry out two further studies on:

- the relationship between the tar content in cigarettes and effects on health;
- the establishment of the most accurate measurement methods of tobacco pollutants, in particular as they relate to the tar content of tobacco.

"The results of these two new studies will, in turn, form part of the report, requested by the Health Ministers, on the operation of the UK surtax on high-tar cigarettes.

"I might note in passing that I have a particular interest in this point, since taxation policy is one of my specific responsibilities as a Member of the Commission.

"The Parliament asked us to harmonize legislation in the Member States with respect to restrictions on smoking and regulations governing the sale of tobacco.

"One possibility which immediately springs to mind is an extension of the prohibition of smoking in public places. Information to hand, including a very interesting study carried out by our Consumers' Consultative Committee, shows that practice in this connection varies substantially between Member States. For this reason, I would like this point to be given close attention by the Ministers for Health.

"During their meeting, the Health Ministers seemed to find a fairly wide measure of agreement on the desirability of prohibiting the purchase of

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Source: https://www.industrydocuments.ucsf.edu/docs/nhjl0000

- to seek a common attitude to advertising;

- to exchange information on measures already taken by the Member States *(1)*.

Ministers requested the Commission to take appropriate steps to implement the forementioned activities. They noted that these steps refer to the Commission's assistance in the exchange of information between Member States, meetings of experts and studies, without recourse to legal instruments. Moreover, activities undertaken in the Member States and the various international organizations should be taken into account in order to avoid duplicating efforts.

Ministers also agreed to meet again but did not set a date for their next session.

d) The European Commission

(i) General position

Although Patrick Hillery, as a member of the previous Commission, had confirmed the Commission's neutrality (see beginning of this chapter), the new Commissioner for Consumer Affairs, Richard Burke, took position when he undertook to promote consumer interests with regard to tobacco consumption. The Commission's position up to early 1978 was well summarized by him in a speech on "The European Dimension in Health Policies" in Dublin on February 22, 1978 *(2)*. He summed up his and his fellow-Commissioner, Henk Vredeling's reply to a question in Parliament the previous month (see under b) above), which he said put the Commission's views and its current activities in a nutshell:

*"The possibilities of further Community action, and the forms it should take, are being examined in the light of the first meeting of the Ministers for Health, held on December 13 last.*

*"At that meeting, the Ministers had a general exchange of views on problems related to:*

*- the cost of health services*
*- tobacco*

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(1) *Press communiqué: this meeting of Health Ministers was summarized in "Europe-forum" (N° 41/78, 21.11.78) - Annex 35*

(2) *i.e. after the first meeting of EEC Health Ministers on December 13, 1977 - see under c) above.*

Source: https://www.industrydocuments.ucsf.edu/docs/nhjl0000

"Another claim frequently made by anti-smokers, that children are harmed by their parents' smoking, is mainly based on several studies published in the late 1960s and 1970s suggesting that cigarette smoke may be responsible for adverse effects in children. However, questions have been raised both about the experimental methods used and about the reliability of the conclusions. Moreover, a number of recent studies have failed to demonstrate adverse effects in children of smoking parents.

"Other people's smoke has never been shown to cause disease in non-smokers."

(iii) Overall mortality

"The use of results from flawed population studies to frighten people by attributing large numbers of deaths yearly to smoking may be misleading and is most regrettable.

"Assertions that non-smokers as a group live longer than smokers are based on studies that were poorly designed and statistically flawed. For example, they involved samples not representative of the general US population. Despite these problems, data from the reports are still used to support a variety of claims about smokers' mortality, including the charge that several hundred thousand Americans die each year because they smoke. With such use - and misuse - of data, it is probably not surprising that a caveat in the 1964 Surgeon General's report is often overlooked: *'Statistical methods cannot establish a causal relationship...'*"

(iv) Women and smoking

"Inconsistent findings from studies of smoking women and their children make it impossible to draw convincing conclusions from the data."

Pregnancy outcome

"Although the abbreviated 1977-78 HEW report to Congress concludes that cigarette smoking is *"probably causally associated"* with increased perinatal mortality, it relies on data which indicate that any claims of a causal relationship have a highly questionable foundation. The data suggest that such factors as history of previous pregnancy loss and hospital pay status (public vs. private) have greater effects on preg-

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Source: https://www.industrydocuments.ucsf.edu/docs/nhjl0000

- legislation in Italy has achieved nothing;
- personal experience: schock tactics often have reverse effect: lung cancer exhibits did not discourage his daughter and friends;
- more young people smoke in spite of campaigns;
- those who give up after a heart attack nearly all start up again;
- the high tax in Germany merely led to a "roll your own" upsurge;
- the "safe cigarette": no, but "safer" because of the dose-effect relationship;
- Califano (HEW) instigation of anti-smoking campaign brought fierce resistance from the Agriculture Department because of conflict of interests with a large number of tobacco-growers;
- there is no evidence that the passive smoker is exposed to the risk of lung cancer;
- carbon monoxide levels are higher from road traffic than in normally ventilated rooms in which smokers are present;
- low-tar cigarettes were introduced in the UK too suddenly. It took 20-30 years' gradual change in Germany.

There was no reply to Mr. Ajello's question on whether there are divergent opinions on the dangers of smoking and the direct link between smoking and cancer.

In the course of discussion on other subjects, Mrs. Squarcialupi said that:

*"In each subject we dealt with we heard frequent mention of the damage smoking can do and ended up with what appeared to me to be derisory solutions. So the fragmentary nature of all the studies which have been carried out so far, the over-specialization, the gaps in so many fields which are not the responsibility of individual scientists, whom we naturally respect highly, are due to the lack of organization, to the lack of coordinated study, to the lack of a division of labour."*

No conclusions were drawn from the experts' statements and the ensuing discussions.

2. The Parliamentary discussion

Based on facts revealed during the hearing, Mr. Jahn established a Parliamentary report on environmental carcinogens (1).

(1) *Report drawn up on behalf of the Committee on the Environment, Public Health and Consumer Protection and dealing with environmental carcinogens. Rapporteur: W.E. Jahn, European Parliament Working Document 1978-1979, N° 99/79 of May 2, 1979.*

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Source: https://www.industrydocuments.ucsf.edu/docs/nhjl0000

nancy outcome than materal smoking. The data provide support for the belief that adverse pregnancy outcomes - indeed, the health and life or death of the child itself - may be predetermined by who the mother is - her constitution or innate characteristics - rather than whether or not she smokes."

Smoking and early menopause

"Research which appears to indicate that smokers undergo menopause earlier than non-smokers has been used to support a claim that smokers are depriving themselves of the "protection" from heart attacks believed to be provided by female sex hormones until the change of life.

"However, this claim is not supported by heart disease mortality statistics which show no "jump" during the menopausal age span - such as might be expected if large numbers of women were suddenly deprived of "protection" against this disease.

"The almost single-minded concentration on smoking evident in much research in this area may result in a failure to consider other factors that may be involved. For example, Public Health Service research indicates that menopause begins earlier in black women, in white women from lower income levels and rural areas and in leaner women. "

Oral contraceptives

"The scientific literature does not support the claim that oral contraceptive users who stop smoking decrease their disease rates significantly. This point was recently made in a Congressional hearing during which a decision by the Food and Drug Administration to require a printed warning - which, in effect, implies such an assurance - came under attack.

"In discussions on this issue, concern has been expressed that the reported statistical relationship between oral contraceptive use, smoking and illness may cause scientists to overlook other factors that may explain this relationship."

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Source: https://www.industrydocuments.ucsf.edu/docs/nhjl0000

it notes that *"the experts all agree that tobacco smoke is extremely carcinogenic and therefore urges that:*

*(a) the tobacco industry make its products as safe as possible by further lowering their tar content and that research to this end be encouraged;*

*(b) further information campaigns be launched on the potential risks of smoking, emphasizing the advantages of low-tar over high-tar tobacco;*

*(c) young people in particular be informed of the dangers of smoking before acquiring the habit by the inclusion of health hygiene courses in school curricula;*

*(d) no-smoking compartments be introduced in trains and aircraft where this has not yet been done."*

The Parliament also requests the Commission to propose the following measures in the field of cancer epidemiology:

*(a) collection and exploitation of more comprehensive information on working conditions (including correlations) in connection with cancer cases involving employed persons and on smoking among workers;*

*(b) compilation of cancer registers to be kept and stored for a period of at least 30 years, which could be used to monitor the incidence of cancer and offer the additional advantage that each record includes the initial diagnosis and would possibly give more details about the histological type of tumour than are contained in the corresponding mortality records;*

*(c) introduction of comprehensive health monitoring of certain occupational groups, on the Danish model.*

(iii) Other points raised

Questions relating to smoking and health have been raised on other occasions. The following should be noted:

- Henk Vredeling, Commissioner responsible for Social Affairs, said in reply to a question by Mrs. Krouwel-Vlam (Dutch, Socialist, President of the Parliament's Committee on the Environment, Public Health and Consumer Protection) on preventive action in the field of cardiovascular disease (1) that public health actions of this kind were not

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(1) *Parliamentary session, June 12, 1978*

Source: https://www.industrydocuments.ucsf.edu/docs/nhjl0000

*system will consist of a proportional excise duty combined with a specific excise duty in order to establish, at the final stage, which will start on January 1, 1980, the same ratio between these two elements, in such a way that the range of retail selling prices, freely determined by the manufacturers, reflects fairly the difference in the manufacturers' delivery prices."*

The resulting Council Directive (72/464 EEC) on "Taxes other than turnover taxes which affect the consumption of manufactured tobacco" was not adopted until December 19, 1972. This was just prior to the accession of the UK, Ireland and Denmark to the European Community.

b) First stage - Council Directive 464/72 *(1)*

The first directive (464/72) states in Article 1 that the excise duty to which Member States subject manufactured tobacco shall be harmonized in several stages. It then sets out guidelines and special criteria for the first stage.

- The EEC Council will decide the transition from one stage of harmonization to the next on a proposal from the Commission. Progress will be taken into account. Transition may be deferred if a Member States seems liable to suffer a disproportionate loss of revenue.

- Member States may only impose excise taxes as defined in the directive, as well as V.A.T.

- The term "manufactured tobacco" will apply to:

| | |
|---|---|
| cigarettes | smoking tobacco |
| cigars and cigarillos | snuff chewing tobacco |

and the Council is called upon to determine their definition and classification.

- Each Member State shall subject national and imported cigarettes to an excise duty which is a combination of proportional and specific elements, and the rate must be the same for all cigarettes.

- In the final stage of harmonization, the same ratio of proportional and specific duties shall be established for cigarettes in all Member States.

- Manufacturers and importers shall be free to determine the maximum selling price for each of their products. However, in order to facilitate levying the excise

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*(1) OJ N° L 303/1 of 31.12.1972 - see Annex 24*

Source: https://www.industrydocuments.ucsf.edu/docs/nhjl0000

Italy for one has not yet even implemented the second stage of harmonization and the existence of the UK surtax on cigarettes with a condensate yield of over 20 mg might make it difficult for the Commission to draft proposals and for the Council to accept them. But while it does not require great sagacity to predict that the deadline for completion of the final stage of harmonization will not be met, it is much more difficult to make a reliable forecast concerning the ad valorem/specific tax ratio which will ultimately be adopted. In terms of competition, the repercussions of the solution finally reached will not be identical in all countries, since they depend on whether higher or lower priced cigarettes have the larger share of the market.

b) The Community will not exercise any influence in the near future on the rates of excise taxes levied on tobacco products in the Nine. The Commission has designated the amount of revenue from tobacco excise tax which could possibly be transferred wholly or in part to the Community's own resources. The Commission itself has made it clear that this could create major problems, not only because the tax is not likely to constitute an equitable contribution by Member States to the EEC budget, but also because it necessitates a new agreement between Member States which will have to be ratified by the national Parliaments.

c) The problem of the tax-free shops will probably not be solved in the way originally envisaged by the Commission, viz. the total abolition of tax-free sales to intra-EEC travellers. However, Member States may be obliged to adjust certain provisions to ensure payment of customs duties for goods imported from third countries which are not in free circulation in the Community. On the other hand, arrangements may be made to provide internal tax relief, in particular as regards excise taxes. If so, tobacco products may still be bargain buys in tax-free shops for quite a while yet.

d) The volume of goods in travellers' luggage which may be imported duty-free has been increased twice since the establishment of the EEC. Another increase may be granted, although probably not within the next two or three years. Whether the next increase will also cover tobacco products is an open question and partly depends on governments' attitudes to the smoking and health issue which was brought up in this context when the tobacco and alcohol allowances for people under 17 years of age were discontinued.

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Source: https://www.industrydocuments.ucsf.edu/docs/nhjl0000

covered by the EEC Treaty. Nevertheless, the Commission would carry out any task given to it by the EEC Health Ministers;

- Richard Burke, Commissioner responsible for Consumer Protection, answered an oral question by Lord Kennet (UK, Labour) *(1)* that no reliable indications are available concerning the cost of smoking to the Treasury and the economy.

c) The Council of Ministers

The EEC Nine's Health Ministers had a first meeting in Brussels on December 13, 1977. They dealt primarily with health education, with special emphasis on smoking, drug abuse in sport and nutrition. They stressed the importance of anti-smoking campaigns in health education. As regards smoking, they agreed that the Commission would compile basic documentation on this problem.

This action was the subject of a written question in the European Parliament *(2)* and the Commission's reply was that questionnaires had been sent to the various governments. Its intention was to submit a summary of replies to the second Health Ministers' Council meeting.

This second meeting took place on November 16, 1978 and it did include an exchange of views on health education policies to be followed, with particular reference to smoking, nutrition and drug abuse in sport. With regard to smoking and nutrition, the Ministers emphasized the paramount importance of health education in the context of health policies and welcomed the efforts being made in this area by the Member States. They considered smoking and nutrition to be important areas on which health education should place particular emphasis and agreed in respect of smoking:

- to establish common methods by which to compare the results and to assess the effectiveness of health education campaigns on smoking;

- to carry out health education campaigns of an experimental nature in order to determine the main features of cigarette smoking by young people and to identify their effects on health and the family and socio-economic factors which may play a part in the commencement and development of cigarette smoking;

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*(1) Parliamentary session, February 16, 1978*

*(2) Debates of the European Parliament, sitting of June 13, 1978, Question N° 7 by Mr. Edwards, p. 68 - Annex 34*

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Source: https://www.industrydocuments.ucsf.edu/docs/nhjl0000

*however, that this rule should also apply at national level. A general ban should be introduced on smoking in aircraft.*

*"Restrictions on the advertising of tobacco do not, however, seem to achieve the desired effect. An anti-smoking campaign should therefore be launched to explain the advantages of lighter cigarettes which have a lower tar level over cigarettes and tobacco with high tar levels.*

*"It is also arguable that in the light of the dangers of passive smoking measures should be taken to protect the non-smoker and, in particular, that there should be a call for a general ban on smoking at work. The committee has not adopted a firm position on this matter.*

*"Smoking in public places should be prohibited.*

*"To try to curb smoking by increasing taxes on cigarettes is extremely dubious from the health point of view. Instead of cigarettes people then buy loose tobacco and roll their own cigarettes, which contain something like four times as much tar as light mass-produced cigarettes.*

*"Your committee therefore rejects any solution along those lines."*

Mr. Jahn introduced the debate, stating that it was difficult to prove that a single distinct substance causes cancer. There are often combined effects resulting from various substances and it is impossible to determine the cause of cancer. The report therefore refrains from generalizations and apodictic statements. Reliable proof concerning many factors contributing to the occurrence of cancer is not, in fact, available.

The report thus indicates the dangers resulting from certain harmful substances in the environment and certain types of human behaviour as possibly causing cancer.

Mr. Jahn stressed that the cigarette and tobacco industries have accepted self-restraint measures resulting in a reduction of 50% of condensate and nicotine contents over the past ten years. The industry, he said, should continue its efforts.

At the end of the debate, the Parliament adopted a resolution (1) in which

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(1) *Annex 33a*

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Source: https://www.industrydocuments.ucsf.edu/docs/nhjl0000

in relation with the numerous other carcinogenic and otherwise harmful substances in the environment, but also to find ways and means of reducing or even eliminating risks where they are clearly defined.

c) The cigarette industry has reacted to the health issue and marketed products with lower condensate and nicotine contents. The consumer has requested such products and broadly speaking has largely accepted the products conceived by the industry to meet his demand. However, consumer tastes and requirements are notoriously difficult to predict, as many manufacturers have learned to their cost after unsuccessfully launching many a new brand. In fact, a product which does not give satisfaction to the consumer has no chance of surviving on the market, and satisfaction is bound up with the ingredients present in tobacco smoke.

d) A certain change of attitude seems to be emerging in respect of smoking. To begin with, initiatives aimed at cutting the smoking habit immediately by order of the authorities (ie. the ban on smoking in public places in California, and the ban on advertising for tobacco and alcohol in Switzerland) failed in the face of fierce opposition from the majority of the voting population. Confronted with growing government intervention, the private citizen appears eager to preserve his own freedom and judgement. Then, the many anti-smoking campaigns - which all too often turned into crusades against the "evil" habit of smoking and which tried to create a climate of intolerance -, have been less successful than anticipated with women and young people, although they have scored certain results in their attempts to reduce smoking in men.

A new trend now appears to be emerging whose ideas were voiced at the Fourth World Conference on Smoking and Health in Stockholm in June 1979. It is now more generally acknowledged that crusade-like, emotionally charged campaigns are increasingly likely to be counter-productive and that striking, generalized results cannot be expected in the short term. The focus, according to former US Health Education and Welfare Secretary, Mr. Califano, should be on preventing smoking in the generation living 20 years from now.

e) The Community may concentrate its short-term activity on this problem, by finding out how the various campaigns are conceived and implemented and to what extent they are successful or not, taking into account the differences and similarities of population attitudes in the various Member States as well as short or longer-term changes in these attitudes. The Nine's Health Ministers will probably continue to exchange views and experiences in this field but no joint, mandatory decisions must be expected.

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Source: https://www.industrydocuments.ucsf.edu/docs/nhjl0000

wish to have a clear understanding of the present state of knowledge regarding the health effects of smoking, still a highly controversial issue, and have started collecting relevant data to this effect.

The Commission services wonder whether it would be possible to develop and produce relatively "safe" cigarettes. They refer to the practice of authorizing the use of food additives and preservatives in small quantities so as to ensure that the cumulative carcinogenic effects will not normally occur until an age which few if any human beings reach (eg. 120 years).

In reply to a Parliamentary question *(1)*, the Commission confirmed this position. It also stressed that it did not intend to propose a directive on the introduction of free health checks for the population in the context of preventive medicine.

European Parliamentarian, Mr. Schyns (Belgium, Christian Democrat) has referred to the infringement proceedings opened by the Commission against France on the grounds of discrimination in the field of alcohol advertising and has asked whether the Commission does not think it would be appropriate to submit a proposal for a directive harmonizing Member States' provisions in this respect with a view to limiting, as far as possible, all forms and ways of encouraging the consumption of alcohol.

The Commission has answered that it does not at present envisage proposing such a directive concerning harmonization of national measures which - insofar as they are compatible with the provisions of Articles 30 - 36 of the EEC Treaty on free circulation of goods - play a part in combating alcoholism to the extent judged appropriate by the Member States *(2)*.

As the Commission clearly does not intend to take action against alcoholism, the question is whether its position on smoking is similar.

Another question is whether, and to what extent, actions, and in particular legislative acts (regulations and directives) concerning issues connected with smoking and health, which concern the field of public health, are authorized by the EEC Treaty. Commissioner Vredeling, speaking on preventive action in the field of cardiovascular disease (see under 5b) (iii) above), apparently has his doubts, doubts which are understood

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(1) *Mr. Dondelinger, Official Journal N° C 31 of 3.2.1978, p. 4*

(2) *Official Journal N° C 15 of 17.1.1978, question n° 725/78, p. 2*

Source: https://www.industrydocuments.ucsf.edu/docs/nhjl0000

1. General considerations

a) The European Community has abolished customs duties and quantitative restrictions to trade between the Member States. But intra-EEC trade in tobacco products is still restricted by EEC tax barriers and particularly by the requirement that fiscal stamps of the country of destination and consumption be stuck on the packages. This effectively stops these packages from being transferred to another country, in other words, parallel imports or re-import, as possible for other goods, are excluded, and Member States' markets remain isolated. As long as these fiscal barriers are not eliminated, viz. as long as tobacco products cannot be traded across intra-EEC borders without national VAT and excise taxes being paid in accordance with the tax laws of the importing country, the Community will continue to be divided into national markets for these products.

b) On the other hand, brands sold on the domestic market cater to a particular consumer taste which tends to differ more or less markedly from one country to another. With the sole exception of a very few international brands, the large majority of brands are not sold throughout the Community. But even though they may, in certain cases, have only limited, even local significance, they are unlikely to disappear for many years to come.

In any event, EEC policies will not have any influence on excise tax rates and their evolution.

c) The EEC's powers in the economic and social fields are limited. EEC influence on unemployment policies will remain limited if not non-existent. Any repercussions of EEC policy will in fact be due to better coordination of national economic policies or convergence of economic achievements. The Community will also set up more rules, in particular with a view to harmonizing company law, which will enable tighter control of multinational companies. However, such repercussions will be of a general nature and have no specific bearing on the tobacco industry.

d) On the other hand, EEC action in the field of raw materials, excise taxes, monopolies and distribution will influence the development of the tobacco industries, albeit to varying degrees, as outlined hereafter.

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*from a scientific and medical point of view as well as from a political point of view, as being intolerable in terms of economics and liberty.*

(iv) Reactions of the trade unions

The ETUCF (European Trade Union Committee of Food and Allied Workers) also protested in May 1979 against the allegations made by the C.C.C. *(1)* It stressed in particular that scientific studies carried out recently have demonstrated that the negative judgment of the use of tobacco as expressed in the 1960s cannot be sustained today. This is particularly true of the comparison made between deaths caused by road accidents and deaths caused by smoking, as proved by statements of the German government in May 1975.

The ETUCF draws attention to the agreement on voluntary restrictions by the German cigarette industry which it considers an appropriate example (within the EEC).

Finally, the ETUCF states that:

*"Individual liberties must not be unnecessarily restricted through State legislation. The freedom to smoke is one of these liberties. A balance between the interests of smokers and non-smokers is a question of sound judgment and individual tolerance which has nothing to do with legislation."*

The ETUCF requested the Commission to publish this statement in *"Euroforum"*, a request with which the Commission complied only partially (*"Euroforum"* 12/79).

b) The European Parliament

(i) Mrs. Squarcialupi's question and the resulting debate

"Smoking and Health" was discussed in the European Parliament for the first time in January 1978 on the basis of an oral question put by Mrs. Squarcialupi (Italian, Communist) on behalf of the Committee on the Environment, Public Health and Consumer Protection to the European Commission on "Community Policy against Smoking". Her question and the ensuing debate on January 17, 1978 are set out in Annex 33 to this report. She called for harmonised legislation, a ban on publicity in the mass media, health education and large-scale research and study.

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Source: https://www.industrydocuments.ucsf.edu/docs/nhjl0000

The paper suggests the following measures:

- campaign of education and information;
- total advertising ban for tobacco goods;
- artificial enhancing of tobacco prices;
- more scientific research.

The matter was brought into focus by a written question submitted to the Commission by Euro-MP, Mr. Pucci. The text of this question and the Commission's reply are reproduced in Annex 37. The gist of the reply was that the document quoted by the Parliamentarian was an internal working paper prepared by an official for the sole use of his superiors. The Commission confirmed that its views on smoking remained the same as expressed in reply to Mrs. Squarcialupi (see under b) above).

The non-official Commission paper nevertheless prompted a reply from the cigarette industry *(1)* which was sent to the Commission. It analyses the abovementioned assumptions and stresses that:

- at the present state of knowledge, the alleged causal relationship between smoking and a number of grave diseases can only be vague assumptions;
- reliable statistics on the number of premature deaths due to smoking cannot be obtained;
- without clear, factual proof of the causal relationship - if any - between smoking and various diseases, it is impossible to calculate social costs of smoking;
- to equate nicotine and addiction is to disregard scientific analysis of the characteristics which constitute drug addiction and the question of whether these characteristics may be found with nicotine.

The industry also notes in respect of the proposed measures against smoking that:

- the education and information campaigns must be based on what responsible scientists have to say about smoking and its effects, if any, and that they must be designed in such a way that the citizen remains free and responsible for his own well-being;
- numerous studies demonstrate that tobacco advertising has no effect on the total use of cigarettes. There is no scientific support for the

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*(1) See Annex 38*

Source: https://www.industrydocuments.ucsf.edu/docs/nhjl0000

(iii) Surtax on cigarettes with high condensate content

When the Council adopted the directive on the second stage of tobacco excise duty harmonisation *(1)*, it authorized the UK to levy a surtax on cigarettes with more than 20 mg condensate content for a period of two and a half years. The Commission was requested to report on the effects of this tax, intended to dissuade smokers from smoking such cigarettes.

The Commission has not yet completed this report, which is due to be submitted to the Council together with the Commission's proposals for the final stage of tobacco excise tax harmonization. In fact, the exception authorized for the UK has a de-harmonizing effect and must either be abolished - if it does not have the desired effect in the UK - or generalized in all EEC Member States.

No comparative data have been published yet or made available otherwise on the condensate and nicotine contents of cigarettes in the various Member States. However, a reduction of condensate levels is observed in all member countries, although some markets have made more progress than others. Germany, which is the market with the highest proportion of filter-tipped cigarettes and the lowest condensate yield, has achieved this by slowly but surely changing consumer demand patterns combined with determined action by the industry which offers an ever-increasing variety of brands with low condensate and nicotine contents *(2)*.

The Commission is expected to submit its proposals on the final stage of excise duty harmonization for tobacco products together with the said report by end-1979 or early 1980, in order to enable the Council to take a decision before June 30, 1980, i.e. six months before the end of the second stage.

(iv) Health problems

The services of EEC Commission Directorate V (Employment and Social Affairs) are responsible for implementing the conclusions of the second meeting of EEC Health Ministers. Before taking action, however, they

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*(1) See chapter 6, 4c)*

*(2) See also Professor Schmähl's statement under point 5b) (ii) above*

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Source: https://www.industrydocuments.ucsf.edu/docs/mhjl0000

The report recalls the Parliament's initiatives to fight cancer, sums up the main findings of the abovementioned hearing and makes recommendations in the various fields covered by the hearing. As regards tobacco, the report has the following to say:

*"International anti-smoking campaigns have so far been relatively unsuccessful. World tobacco consumption is in fact on the increase. The realistic approach, therefore, would be to tackle the incriminated product itself so as to make it "safer". Attempts should be made to get smokers to change gradually to low-yield cigarettes, i.e. cigarettes containing less than 8 mg of smoke condensate. The bronchial carcinomas which occur today are attributable to inhalation from cigarettes smoked thirty years ago, which in those days contained an average of 25-30 mg of smoke condensate. The smoke condensate content of today's cigarettes is about 10 mg. Some progress has, therefore, already been made towards the production of lighter cigarettes. This trend must be maintained. Smokers should also be advised not to inhale.*

*"Steps should also be taken to ensure that the tobacco industry provides goods which have been made as safe as possible by reducing their condensate content. Your committee feels that the Community should promote research to this end.*

*"It is also necessary - despite doubts about the likelihood of success - to carry out further campaigns to explain the potential risks of smoking.*

*"The important thing is to warn young people about the dangers of smoking early enough, i.e. before they have acquired the habit. Health hygiene should, therefore, be included in schools' curricula. Children must be taught not to smoke as early as the primary school.*

*"It is also necessary in the context of prevention for clear priorities to be established with a view to persuading as many smokers as possible to give up the habit or reduce their consumption.*

*"At a major scientific congress held in the USA in the spring of 1978 it was pointed out that one half of all deaths would soon be attributable to lung cancer if present trends in smoking habits were maintained.*

*"Compartments for smokers should be introduced in international trains and aircraft where this is not already the case. Your committee feels,*

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Source: https://www.industrydocuments.ucsf.edu/docs/nhjl0000

f) Judging from statements by the present Commissioner responsible for consumer protection, his institution has apparently abandoned, at least for the time being, the idea of proposing common rules for advertising for tobacco products. It may try to bring the tobacco industry together in order to set up, possibly in cooperation with consumer representatives, a common code of conduct for publicity for tobacco products. However, such an initiative is liable to run into a variety of difficulties since the provisions made in the various Member States by the public authorities acting alone or in conjunction with the industry, and by the industry itself (in agreement with the authorities) tend to differ more or less significantly. Another stumbling-block would be negotiations with a view to securing the participation of the monopolies, themselves a State institution.

g) Hence, as far as the Community is concerned, the main initiatives will continue to be taken nationally, although they may to some extent be influenced by contacts between the nine Ministers responsible for public health. On the other hand, work carried out in a longer-term perspective, aimed at effective consumer education on smoking and the definition of research, taking into account growing understanding of the complexity of inter-dependent agents at work in the environment, stands a much better chance of producing a more solid basis for appropriate action by the public authorities and the tobacco industry.

## 6. Final comments

It is obvious that neither the EEC as such nor individual Member States will be able, in the short term, to develop a comprehensive tobacco policy ranging from the production of raw tobacco to consumption by the final consumer. Hence, the industry will continue to face divergent aspects of the public authorities' actions at national and Community level.

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Source: https://www.industrydocuments.ucsf.edu/docs/nhjl0000

assumption that the decision to begin smoking is influenced by advertising; in all countries where advertising as a means of communicating with the consumer is allowed, the average condensate and nicotine contents of the entire range of the market have been significantly changed during the past few years;

- tobacco experts agree that the tobacco tax is an unsuitable instrument when trying to achieve objectives concerning public health;
- the cigarette manufacturers have long maintained an interest in scientific research in all matters related to tobacco and tobacco use and maintain their commitment to quality research

A paper on public (passive) smoking *(1)* was added, demonstrating with reference to a large number of scientific sources that atmospheric tobacco smoke has not been proven hazardous to the health of non-smokers *(2)*.

Following the second meeting of Health Ministers, during which it was stressed that action in the field of smoking and health should be carried through without recourse being had to legal instruments, the Commission is now apparently no longer preparing mandatory provisions on tobacco advertising for the EEC Council to adopt. When announcing its new Consumer Protection Programme, the Commission stressed the need for consultation and discussion between the industry and the consumers, leading, where appropriate, to agreements between the two.

Whereas the Commission was initially not too sure of the merits of non-mandatory codes of conduct, it now apparently feels that while not ideal, they nevertheless constitute a possibility that ought to be considered, on the premise that it is better to work with what is possible than with what is most desirable.

However, as the situation as regards tobacco advertising varies considerably from one Member State to another, ranging from a total ban (chiefly for reasons of competition) through legal restrictions to self-restraint by the industry, it does not seem very likely that common denominators will be found by the industries of the seven non-monopoly States, not to mention the considerable difficulty of getting the two monopoly States to participate in a code of conduct together with free enterprise.

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(1) *See Annex 32*

(2) *See also under 5. b) (ii) above - concluding statement of Professor Schmähl, as well as point 5. a) (ii).*

Source: https://www.industrydocuments.ucsf.edu/docs/nhjl0000

2. Raw materials

a) The situation on the raw tobacco market is likely to change significantly, firstly as a consequence of Greece joining the Common Market in 1981 - Greece is one of the major producers of oriental tobaccos, the marketing of which has encountered serious difficulties already - and secondly as a result of reform of the tobacco market organisation with a view to reducing the quantities of tobacco taken in by intervention agencies because they cannot be sold on the open market. The cost of operating the Common Agricultural Policy has risen so steeply over the last years that the EEC institutions and Member States alike have come to acknowledge the need substantially to lighten the burden of financing unmarketable surpluses. Hence financial intervention in favour of raw tobacco is likely to be reduced, as it will be for other agricultural commodities.

b) The situation as regards raw tobacco imports from third countries may not change to any considerable extent. The Tokyo Round, which resulted in a cut in conventional customs tariff rates, will be valid for quite some years to come. Additional concessions in the framework of the Generalized Scheme of Preferences are therefore likely to remain very limited.

c) The Lomé Convention provides for an export earnings stabilisation scheme (the so-called Stabex) whose purpose is to stabilise the developing ACP countries' earnings from the export of certain commodities. Raw tobacco is not yet one of these, but acting at the request of the ACP countries, the Association Council is to study the possible inclusion of raw tobacco in the Stabex at its first meeting following the entry into force of the new Convention in 1980. However, even if tobacco is included this will make no difference to the EEC import situation since import prices, viz. world market prices, will not be altered by EEC payments to the ACP States and hence no obligation to buy such tobaccos will result from the scheme.

d) As regards the policy areas described above, the situation on the raw tobacco market in the Community is likely to remain fairly stable.

3. Excise taxes

a) The Community continues to aim at harmonizing the structure of national tobacco excise taxes, i.e. the relation between the ad valorem and specific elements of these taxes. The present timetable for harmonization stipulates that the next and final step should be completed by January 1, 1981. However,

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4. The monopolies

a) While it is certain that France and Italy will ultimately eliminate the remaining infringements of Article 37 of the EEC Treaty, when this will be done is a matter for conjecture. The Commission has already announced its determination to obtain compliance with the Treaty rules by these two countries in the very near future. Nevertheless, doubts may persist as regards the compatibility of individual measures taken by France and Italy to adjust the monopoly situation to Treaty exigencies. Both monopolies enjoy a very strong position on their home markets and competitors therefore find themselves in a delicate position.

b) Competitive disadvantages will persist in any case in the field of advertising, which is totally banned in Italy and in France is regulated in such a way that the volume of authorised advertising practically reflects market shares, in other words, advertising is likely to safeguard the competitive edge of the French monopoly on any competitors.

c) If the apparently non-discriminatory provision that products must be distributed all over France is maintained, distribution costs may rise to prohibitive heights. If, on the other hand, Italy maintains the also apparently non-discriminatory clause that fiscal stamps must be paid within four weeks of delivery by the competent authority, foreign producers may have to pre-finance the excise tax - which by definition has to be paid by the consumer, not the producer - at such high cost to themselves that the competitive position of foreign brands on this market would be seriously impaired.

It is not yet clear how the Commission will react to the various provisions, already existing or still in the pipeline, which distort competition, nor what the EEC Court of Justice's position might be were an action to be brought before it. Hence the outlook in this respect is impossible to predict.

5. Consumerism

a) The problem of smoking and health will certainly continue to be one of the major concerns for public authorities and the consumer organisations as well as for the tobacco industry and all those dependent on its activities.

b) More, and hopefully better coordinated, research may yield results which make it possible not only better to assess the risks involved in smoking, considered

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*cigarettes by minors. This appears to be an attractive idea, but a number of practical problems would have to be overcome. For example, a prohibition of this kind could easily be circumvented by the use of automatic vending machines.*

*"The Commission was also asked to ban all open or surreptitious publicity in favour of smoking. On the surface, this seems to be an attractive idea. On the other hand, if we were to ban all advertising of tobacco, there is no doubt that large numbers of people would still continue to smoke, and there would be no means of informing them of the development of less harmful products which might be developed. The whole question of tobacco advertising is being examined by our Environment and Consumer Protection Service, and I hope to be in a position to make a proposal for a Directive on tobacco advertising fairly soon. I cannot yet indicate what the content of this proposal will be, but at this stage I am open to any useful suggestion that can be made.*

*"I would, however, emphasize the fact that neither a ban on advertising nor the simple prohibition of sales will solve the smoking problem.*

*"It is abundantly clear that a permanent change in the smoking habit will require the implementation of convincing education and information campaigns carried out over a long period of time. It is fair to say that there is today a greater awareness than ever before of the dangers of smoking. The unfortunate fact is that, in spite of this heightened awareness, tobacco consumption is still on the increase."*

(ii) Advertising for tobacco products

In June 1978, an unofficial draft of a Commission paper got into the hands of members of the press and industry. The paper (1), entitled "Preliminary draft for a Directive on Advertising in connection with Tobacco", contained in its explanatory memorandum statements based on the following assumptions:

- that smoking is the direct causal agent for a number of grave diseases;
- that a high and calculable number of people die prematurely because they smoked;
- that smoking causes high and calculable social costs;
- that nicotine has all the characteristics of an addictive drug.

(1) *See Annex 36*

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Source: https://www.industrydocuments.ucsf.edu/docs/hhjl0000